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Election of Resident
Commissioners to the
United States

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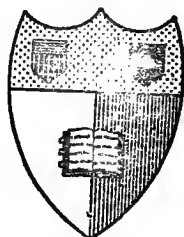
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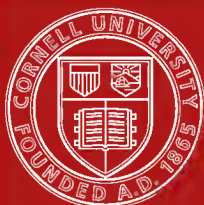
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PHILIPPINE ASSEMBLY
Second Legislature, First Session
DOCUMENT No. 250—A. 38

[TRANSLATION]

ELECTION
OF
RESIDENT COMMISSIONERS
TO THE UNITED STATES

RECORD OF THE DISCUSSIONS BETWEEN THE CONFERENCE
COMMITTEES OF THE PHILIPPINE COMMISSION AND THE
PHILIPPINE ASSEMBLY, WITH A BRIEF ACCOUNT OF
THE FACTS PRECEDING THE APPOINTMENT OF
SAID COMMITTEES, AND AN EXCERPT FROM
THE JOURNAL OF THE ASSEMBLY GIVING
AN IDEA OF WHAT OCCURRED AFTER
THE REPORT OF DISAGREEMENT



MANILA
BUREAU OF PRINTING
1911

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ASSEMBLY RESOLUTION NO. 84.

Resolution providing for the publication of five thousand copies in English and five thousand copies in Spanish of the documents exchanged between the conference committees of the two Houses, relative to the disagreeing votes on the election of Resident Commissioners to the United States, and of the other documents relating to the subject.

Resolved, That the documents exchanged between the Assembly and Commission conference committees on the disagreeing votes of the two Houses relating to the election of the Resident Commissioners, and other documents relating thereto, except those considered in executive session, be published in Spanish and English to the number of five thousand copies in each language, for distribution by the Secretary of the Assembly, under the direction of the Speaker thereof.

Adopted, February 2, 1911.

ELECTION OF RESIDENT COMMISSIONERS TO THE UNITED STATES.

CONFERENCES ON THE ELECTION OF RESIDENT COMMISSIONERS TO THE UNITED STATES.

Pursuant to section 8 of the Act of Congress of July 1, 1902, the Philippine Legislature at a session held November 4, 1910, proceeded to the election of Resident Commissioners to the United States, in accordance with the procedure prescribed in Joint Resolution No. 2 of the First Legislature, adopted November 22, 1907.

In accordance with the resolution mentioned the Assembly sitting in Committee of the Whole, nominated Sr. Manuel L. Quezon by acclamation for the office of Resident Commissioner, at the same time that the Commission, on its part, nominated Sr. Benito Legarda for the same office. Both nominees were then holding office as Resident Commissioners to the United States, having been elected by the First Legislature.

Each of the Houses having been notified of these nominations, the Commission agreed to accept the nomination of the candidate of the Assembly if the Assembly approved the nomination of the candidate of the Commission; but the Assembly rejected Sr. Legarda's nomination by a vote of 53 to 12.

The Assembly then proceeded to a new nomination, and Sr. Manuel L. Quezon was again designated, by acclamation; but the Commission suspended action on the renomination, as it believed that Joint Resolution No. 2, passed by the First Legislature, was binding only on said Legislature.¹

Both Houses having passed, at the session held November 8, 1910, another joint resolution,² providing that the Commission and the Assembly continue to proceed to the election of Philippine Resident Commissioners to the United States, the Commission unanimously and unconditionally approved the nomination by the Assembly of the said Sr. Quezon, and at the same time redesignated Sr. Legarda; but Sr. Legarda was rejected by the Assembly by a vote of 51 to 5.

¹ Record of Assembly session No. 17.

² Assembly Joint Resolution No. 5.

In another nomination, the Assembly again designated Sr. Quezon, by acclamation, and the Commission again unanimously accepted this designation and designated Sr. Legarda, which redesignation was rejected by the Assembly by a vote of 54 to 5.¹

There were five more nominations, one on the 9th, one on the 10th, and three on the 17th of November, with the same result as regards Sr. Quezon, while Sr. Legarda obtained successively 2, 2, 2, 1, and 0 votes.

In view of this result the Commission requested a conference, which was granted by the Assembly, and the following committees were appointed.

For the Commission: President Forbes and Commissioners Gilbert, Araneta, Sumulong, and Branagan.

For the Assembly: Speaker Osmeña and Delegates Barretto, Apacible, Adriático, and Villanueva (F).²

The joint conference committee met for the first time on November 18, 1910, and thereafter on November 29, 1910,³ January 13, 26, and 31, and February 1, 1911.

The verbal discussions had in the conferences between the members of both Houses were subsequently reduced to writing, in the form of statements.

¹ Record of Assembly session No. 20.

² Records of Assembly sessions Nos. 21, 22, and 28.

³ Record of Assembly session No. 29.

LETTER OF THE ASSEMBLY CONFERENCE COMMITTEE.

WEDNESDAY, *February 1, 1911.*

MR. SPEAKER: Your committee of conference on the matter of the election of Resident Commissioners to the United States has the honor to submit to the House, through you, for approval the annexed report, accompanied by a brief record of what has been done in the discussions with the Commission conference committee relative to this matter.

Very respectfully,

SERGIO OSMEÑA,
MACARIO ADRIÁTICO,
FRANCISCO VILLANUEVA,
ALBERTO BARRETTO,
GALICANO APACIBLE.

The Honorable,
the SPEAKER OF THE PHILIPPINE ASSEMBLY.

CONFERENCE REPORT.

The committee of conference on the matter of the candidates for the election of Resident Commissioners to the United States has the honor to report that they have been unable to agree.

SEROIO OSMEÑA,
MACARIO ADRIÁTICO,
FRANCISCO VILLANUEVA,
ALBERTO BARRETTO,
GALICANO APACIBLE.

Managers on the part of the Assembly.

W. CAMERON FORBES,
NEWTON W. GILBERT,
FRANK A. BRANAGAN,
GREGORIO ARANETA,
JUAN SUMULONG.

Managers on the part of the Commission.

**PROCEEDINGS OF THE JOINT CONFERENCE COMMITTEE
OF THE TWO HOUSES OF THE LEGISLATURE ON THE
SUBJECT OF THE ELECTION OF RESIDENT COMMISSIONERS TO THE UNITED STATES.**

NOVEMBER 18, 1910.

Present: Commissioners Gilbert, Araneta, Branagan, Sumulong, and the President of the Commission, on the part of the Commission, and Delegates Barretto, Adriático, Apacible, F. Villanueva and the Speaker of the Assembly, on the part of the Assembly.

The President of the Commission opened the discussion with the following statement:

SPEECH OF PRESIDENT FORBES.

The PRESIDENT. The Commission was appointed by the President of the United States. We represent in the Philippine Islands his policies and ideas and it is our duty to see that they are carried out. We therefore, in the election of Resident Commissioners to the United States, have felt that the first and most important thing to be considered was that of getting somebody who was in entire harmony with the views and the policy of the Administration out here, somebody who had the personal confidence of the President and who, if possible, should be a personal friend of the President. We have not felt that it was necessary for such a person to belong to any political party, whether Progressist or Nationalist, but that it was important that he should properly represent the Commission, the Commission being composed of men belonging to no political party but made up of men who were united in carrying out a certain policy, and that the representative of the Commission should be a man who thoroughly understood that policy and was in harmony with it. Mr. Legarda was first designated for the position as Resident Commissioner to the United States by Mr. Taft himself when he came here as Secretary of War to open the First Philippine

Legislature. He was elected at that time and has ably represented the policies for which he was elected, to the present day. He is a personal and warm friend of the President. He was one of the first Filipinos appointed to the Philippine Commission and served on the Commission continuously until his election to go to the United States as Resident Commissioner. He is thoroughly acquainted with all of the work of the Commission, with the various problems which have arisen and the manner in which they were met. He is a personal friend of every member of the Commission and is morally and socially entirely fit to worthily represent the Filipino people in the Capitol. He has an agreeable personality, he is a master of the English language, and is socially popular and agreeable. We know of no man who could so well represent the Commission in Washington as does Commissioner Legarda. We know of no man who combines all of these qualities in the same degree. So far as we know there has been no objection to him from the point of view of his capacity or his character. The Commission has conferred with the President in regard to the matter and is informed that the President will be pleased to hear of the reelection of Mr. Legarda, and under these circumstances the Commission feels justified in insisting upon its designation of him. The Commission recognizes the right of each House to object to the designation of the other House. The joint resolution under which the elections are now held provides for just such a contingency—the designation of each House must be approved by the other before the Houses proceed to a vote. If the two Houses fail to agree there is no election. This is not an uncommon occurrence in legislatures. In the United States, it not infrequently occurs that vacancies in the United States Senate are left unfilled for considerable periods of time, sometimes through a session of Congress, owing to failure on the part of the two Houses of the Legislature to agree on candidates.

REMARKS OF COMMISSIONER ARANETA.

Commissioner ARANETA. I fully concur in the statement made by the President of the Commission, and I believe that the members of the Commission in designating Mr. Legarda, designated him because they considered that he was the best man that could be selected as a representative of the Commission.

SPEECH OF COMMISSIONER GILBERT.

Commissioner GILBERT. As supplementary to what was said by the President of the Commission and Commissioner Araneta, I would like to say that it appears to me that the law of Congress providing for the election of Resident Commissioners practically contemplates election of one by each House, as it provides that they must be elected by the two Houses sitting separately. If Congress had intended that either House should select both it would have so made the law and provided that either the Assembly or the Commission should elect the Resident Commissioners. Heretofore the view entertained by both Houses has been that these two men should be selected as special representatives of the views of each of the two Houses. There has always obtained since the organization of the Philippine Legislature a very cordial feeling between the two bodies which has never been broken so far as I know up to this moment, but I have a feeling that this disagreement is likely to carry the impression to the people of the Philippine Islands that the cordial sentiment heretofore existing does not longer obtain. Personally I should regard that as a very serious matter because a government can only proceed well with the cordial coöperation of all responsible officials. I think, however, that is only apparent, and that this feeling can readily be counteracted by the two bodies acting as they heretofore have, with cordial sympathy for each others' views. The Commission, in view of this feeling, has unanimously, upon every vote, sustained the designation of the Assembly not, of course, because of the political opinions of the man selected but because of the feeling that each House is entitled to this representation and that the only justification for refusing to concur in the designation by the other House would be that the man was morally unfit or that he was disloyal to the Government. So far as I know no such accusation has been made against Mr. Legarda. I may state further that in my judgment the further prolongation of this contest is injurious to the welfare of the Philippine people for the reason that the Legislature is convened primarily for the purpose of legislation and now one-third of the short session provided by law has passed and there has been absolutely nothing by way of legislation accomplished.

REMARKS OF COMMISSIONER SUMULONG.

Commissioner SUMULONG. I believe that the views expressed by the President of the Commission, the Vice-Governor, and Commissioner Araneta outline accurately the only possible attitude that in my judgment the Commission can take in this matter under the existing law regarding the selection of Resident Commissioners.

REMARKS OF COMMISSIONER BRANAOAN.

Commissioner BRANAGAN. I wish to state that I have known Mr. Legarda for more than ten years; that I was familiarly associated with him during the early days of the formation of civil government in the Islands and that I have watched closely the work he has accomplished for the benefit of the Filipino people. I know of his standing in the House of Representatives in Washington and I fully concur in everything that has been said by the speakers who have preceded me. I think no more suitable man could be found to represent the interests of the Filipino people as Resident Commissioner than the person designated by the Commission.

SPEAKER OSMEÑA'S SPEECH.

Sr. OSMEÑA. Gentlemen of the conference committee on the part of the Commission: The Assembly members of the conference committee have heard with great interest everything that the chairman of the committee and the Commission members have seen fit to state in the matter of the election of the Resident Commissioners. Before making a reply, the Assembly members of this committee must express, in a preliminary manner, their satisfaction in noting the conciliatory attitude adopted from the first by the Commission members. This attitude was expressed most emphatically when the Vice-Governor, who is a member of this committee, pointed to the cordial relations that have always existed between the two Houses as a motive for settling the present differences in a satisfactory manner. The members of the Philippine Assembly acknowledge the existence of these relations and are greatly concerned in preserving them, in the interest and for the benefit of the Filipino people. In reality, the policy that has made such relations possible between the Commission and the Assembly has been ours, and we were responsible for it to the people that elected us. If we now

differ with the Commission, and substitute for the harmonious relations fostered by ourselves an attitude of persistent disagreement, we do so much to our regret. But if we act thus, it is because we believe that we are now doing our duty as we have done it in the past. If we offer opposition now, despite our desire for good understanding and harmony, it is because we are defending a right of the people.

THE ESSENCE OF INSTITUTIONS.

Taking up the examination of the matter for which we have met, it is unnecessary that we should analyze the relations existing between the President of the United States and the Philippine Commission. It will be sufficient to say for the present that we can not agree with the Commission members of the committee in their views regarding the character of these relations. The proposition that the Commission is merely a creature of the President of the United States and can in the present case express only the will and opinion of the latter, could be the subject of a serious discussion. Without going outside of American history and the precedents furnished us by that nation, we shall find arguments to refute this theory. We could easily distinguish between an institutional, responsible and free government and an arbitrary and absolute government. It would not be difficult to find in modern, constitutional law, the idea of a true autonomy of the departments of government, written on the half-effaced footprints of the old system of mere dependence and unconditional submission to the superior. There exist within all democratic governments, however limited their manifestations may be, proper spheres of action appertaining to the distinct bodies of the State or the Government. In the operation of these bodies it is necessary to concede a certain degree of independence, or to deny that democracy exists. If you permit the very essence of institutions to be attacked, then, upon the ruins of a government of laws, you will have built a government of men. Fortunately our Government is a "government of laws and not of men, essential to the protection of the individual rights for a free and orderly government."

We acknowledge that this theory of the indivision of powers between the Philippine Commission and the President of the United States may have had its origin in the fact that at one time the

Philippine Government was an administrative creation of the President in the exercise of his military powers. However, since the Congress of the United States recovered its constitutional supremacy upon the conclusion of the war, and, assuming control, passed the Act of July 1, 1902, considered as the organic law of the Philippine Islands, the theory of the indivision of powers is left entirely without basis.

NATURE OF THE OFFICE OF RESIDENT COMMISSIONER.

However, the Assembly members of this committee do not wish to enter without necessity upon a full discussion of these relations, but, confining ourselves to the matter in hand, we formulate the following question: What is the real nature of the representation of the Resident Commissioners? That is, what is the character and nature of this office? Or, limiting the question still further, seeing that there is no dissenting vote with regard to the designation of one of the Resident Commissioners, what, politically speaking, does the Resident Commissioner represent whom the Commission has designated and the Assembly has rejected?

If the Resident Commissioner mentioned must be a representative of the Commission or an agent of the Administration and must for this reason be elected in accordance with the will of the President of the United States who appointed the members of the Philippine Commission, then the Commission will have found a consistent argument for the designation made by it and the Assembly could, if it should so desire and had no other strong objections, withdraw its opposition. If, on the other hand, the Resident Commissioner mentioned must be, not a creature of the Administration or a representative of the Commission, but the mouthpiece and delegate of the Filipino people, then the Assembly can not withdraw its objection without condemning itself.

In the extensive dissertations of the President and members of the conference committee on the part of the Commission, explaining the reasons why the Commission has designated Señor Legarda and insists on this designation, we have not found anything but the argument based on the opinion that the Resident Commissioner concerned is a representative of the Commission. Our reply must therefore turn on this argument.

The Assembly members of this committee have been struck with admiration at the fair prospects sketched before them by the

Governor-General in the discussion of this question and would like to be able to do likewise in some manner, and, if possible, even to share his opinion. But, in spite of all our efforts, it is impossible for us to give up our belief that the Resident Commissioner in question must be, and is, a representative of the people.

A CONSTITUTION OF OUR OWN.

In considering a matter as important as this, it is a pity that the Philippines have not yet had a constitution of their own, which could be consulted. It has always been maintained that a constitution is necessary and that in times of doubt and difficulty, when those great conflicts over the rights of peoples arise that cause embarrassing situations and obscure the horizon, the constitution shines like a light-house destined to illuminate from afar the tenebrous road of those who are struggling below. But, although fortune, which has been coy as regards the claims of our people, has not so far afforded us the good luck to possess a constitution of our own, there is a number of established practices, precepts, and provisions which can supply this want of a constitution, at least in so far as the present case is concerned. And it is not abstract principles but facts that we shall quote—nor shall we travel other paths than those known to American history in support of our contention. It was not, after all, in vain that the following words were written mid the stress and bitterness of a supreme crisis:

Remember that it has always been the glory and the pride of America that in struggling for her rights she struggled also for those of humanity.

WHAT OUR ORGANIC LAW SAYS.

Let us enter resolutely into the field of our observations and studies, with the faith inspired by these declarations gathered from history, a faith not yet dead in our souls thirsting for justice.

It is not difficult to establish what we seek to establish, the true sense and scope, that is to say, the juridical and political concept involved in the office of the Commissioner or Delegate in question. All that is necessary is to exercise a little patience and not to shut our ears to the voice of justice. Patience, in order to examine the precedents, and justice, in order to find in them, without allowing ourselves to be carried away by passion, but by calm and judicious contemplation, their proper juridical meaning. The Commission members of the committee have examined the Organic Law of the

Philippine Islands, namely, the Act of Congress of July 1, 1902, to decide the only point of the contention in their favor. They have not explained it, nor have they, in stating the purposes which they attribute to the Act, told us on what grounds they construe the law as they have construed it. They have simply referred to the Act and said that the Act supported their argument, which is, that the Delegate mentioned is a representative of the Commission or of the Administration.

This provision of the law reads as follows:

That at the same time with the first meeting of the Philippine Legislature, and biennially thereafter, there shall be chosen by said Legislature, each House voting separately, two Resident Commissioners to the United States, who shall be entitled to an official recognition as such by all departments upon presentation to the President of a certificate of election by the Civil Governor of said Islands, and each of whom shall be entitled to a salary payable monthly by the United States at the rate of five thousand dollars per annum, and two thousand dollars additional to cover all expenses: *Provided*, That no person shall be eligible to such election who is not a qualified elector of said Islands, owing allegiance to the United States, and who is not thirty years of age. (Sec. 8, Act of Congress of July 1, 1902.)

ANALYSIS OF THIS PROVISION OF LAW.

Apparently the whole argument of the Commission is based on the part of the Act of Congress providing for a separate vote. To the contention, however, that this indicates that each House must have its representative, the answer is quite simple. Had this been the intention of Congress it would have been very easy for it to say that each of these two Delegates shall represent each of the Houses of the Legislature and that each House shall elect its delegate or representative. This would have avoided all difficulties.

Congress would undoubtedly have been more explicit if it had intended to associate representation with the Houses of the Legislature and not, as in our opinion, with the people. Had it so intended it would have changed the nature of an office which had always meant something different in the national law of the United States. This was the least to be expected of the wisdom and experience of Congress.

We are convinced that Congress did not adulterate the office of resident Delegate when it granted such representation to the Philippine Islands, even though it chose as agents for the election of

resident Delegates the Commission and the Assembly. The most that can be conceded, is that it so decided to the end that both Houses might jointly share this new responsibility, in order that the representatives of the people, in whom the designation should properly and really be vested, might purge their opinions and adopt their determinations with the advice of the Commission. But it is altogether out of the question that the fundamental object of this concession to the Filipino people, namely, representation, even limited representation at Washington, was to be destroyed. At this conclusion the Assembly members of the committee have arrived, and at this conclusion we shall all arrive if we consult precedents.

THE OFFICE OF RESIDENT COMMISSIONER IN THE PAST.

This representation, granted to a piece of territory subject to the control of the United States and not represented in Congress by Senators and Representatives, is not new in American history. It is not even something created for the Philippine Islands. The office is very old and as regards its nature, its powers and its scope, the American mind has suffered the least possible variations. It was created more than a century ago. It antedates the Constitution itself and of course, also the Federal Congress instituted by the latter. The ordinance creating the office of Delegate dates as far back as the eighteenth century. Even at that time it displays the ideas of liberty and justice that have informed and vivified all American history for over a century.

A free government without popular representation being inconceivable, and the territory of the United States situated northwest of the Ohio River being without the representation which the States had in the Federal Congress, the latter provided, on July 13, 1787, that the territory mentioned should have Delegates in Congress. In other respects, and in spite of the lapse of many years, this ordinance can still be held to be animated by a liberal spirit and can to some extent bear comparison with enactments of more recent times that are held as altruistic. Five thousand inhabitants of legal age are entitled to elect representatives for the General Assembly. The General Assembly consists of a governor, a legislative council, appointed by Congress, and a house of representatives elected by the people. And "as soon as the legislature is organized

in the district"¹—it must be noted that there were hardly any people, that the territory concerned was almost nothing but a vast wilderness—"the council and the house shall vote for a Delegate." Further on, section 5 of the ordinance provides that if the territory shall have 60,000 inhabitants, it may be organized into a State which shall be admitted into the Union and, of course, obtain full recognition of all the inherent rights of a sovereign and free people.

The Federal Congress upon its institution by the Constitution of the United States still in force, ratified the contents of this ordinance of the Continental Government on August 7, 1789.

In accordance with these theories, which became embodied in statute law, to each territory, contiguous or noncontiguous (to use modern classification), was acknowledged the right to a certain representation in Congress, by means of a Delegate. All the way through American history and at all times, be it observed, these theories were fully sanctioned, and under one name or another, the fundamental principle first expressed has been maintained in full force and effect. We might cite all the cases that could be desired, but to confine ourselves to more recent instances, it will be sufficient to mention Hawaii, Porto Rico, and the Philippine Islands.

THEY ARE, AND ALWAYS HAVE BEEN, REPRESENTATIVES OF THE PEOPLE.

Now, gentlemen, we want to tell you one thing, not in a single moment during that long national life of over a century has there been any doubt as to the character of these Representatives or Delegates; never, during all of the time that has elapsed since the creation of the office has the idea that they represent the Government, the Administration, the Legislature or either of its branches been able to take root; they have always been considered to be, as they should be and are, representatives of the people.

And one needs to reflect very little to understand the reason for this. As a matter of fact, these Delegates have hardly any representation in Congress. They are the agents, with very limited powers, of the people of their territories. They take the places in the National Government in an inadequate manner, to be sure, on account of their limited powers and number, of the Senators and Representatives which would properly represent in Congress the

¹ Art. II.

voice and vote of the people if the territory had been admitted to statehood. These Delegates are allowed to be heard on the floor, but are not entitled to vote. They can recommend, but can not direct. They voice the will of their people, but can not decide.

If, in addition to all these limitations, we were now to admit that they do not even represent their people, but are mouthpieces and agents of the government or of the administration, then the most practical thing to do would be to abolish the office as useless.

A FEW MORE CITATIONS.

A very great number of cases might be cited in all of which the principle has been constantly maintained. The character of this office has been discussed at different times, and it has always been associated with the people. The representation, although limited with regard to certain powers of legislative action, has been complete in other respects. If we had the data at hand, and if it were deemed necessary, we would present here a long history of established precedents. For the moment we consider a few citations sufficient, but we reserve the right to present others later. Some of them are general and relate to the source from which the power and the character of the representation of the office under discussion have emanated; these constitute real precedents in the premises. Others are of a special nature and apply especially to the Philippine Islands.

DELEGATE SIBLEY FROM WISCONSIN.

I remember at this moment the case of Delegate Sibley of Wisconsin. By an Act passed on May 29, 1848, Wisconsin, which had been a territory having a Delegate, was admitted to the Union as a State. A portion of its former territory was not included within the limits of the new State. The population of the excluded part did not exceed four thousand inhabitants. The Delegate resigned, and when the acting governor of the portion not converted into a State called a special election to fill the vacancy caused by the resignation of said Delegate, Sibley was elected. In spite of objections that seemed to be well founded, Sibley was admitted and seated as Delegate in the House of Representatives. The right of the people to be represented was invoked and it was said, further, that the people of the Territory of Wisconsin were entitled to this representation as much by natural right as by Government practice. The Ordinance of 1787 was spoken of.

DELEGATE WILCOX FROM HAWAII.

And when the seat of Delegate Wilcox, from Hawaii, was contested in the Fifty-sixth Congress, it was again recognized that the Delegate is an agent and mouthpiece of his people. The report concluded by saying that Wilcox had gone to the Congress as the agent of his people and that he should be permitted to keep his seat as their representative in the legal capacity of Delegate.

THE DELEGATE FROM PORTO RICO.

In the case of Porto Rico, the remarks by different Congressmen were interesting. All tended to confirm the character which up to that time had been given to the territorial representation. Senator Foraker, author of the Porto Rico bill, said:

Our territorial forms of government which have developed and grown with the development and growth of the country are admirably adapted to the government of these Islands.

The only voice that a territory has in the government of this country is that of advice and consultation, by means of a Delegate.

THE DELEGATES FROM THE PHILIPPINE ISLANDS.

Lest there should remain the shadow of a doubt, and in case the requirements of a strict and rigorous standard should demand that we seek other cases, we will quote one which in our opinion is decisive. No longer dealing with old or new territories, it has reference to the Philippines. As had happened before, the question of the right of a Delegate in Congress was again raised when our representatives first appeared in the House of Representatives. On the 4th of February, 1908, the Committee on Rules submitted a resolution by means of which our first Resident Commissioners were admitted into the House of Representatives. They were also recognized to have the right granted to the representatives of the other territories; that is to say, the right of debate. Majority and minority mingled, and the decision of the House of Representatives was unanimous. In the course of the debate the old ideas regarding the representatives of the territories were again raised and it was made clear that the purpose of the resolution was to extend to the Philippine Commissioners the same privileges that had been given to the Porto Rican Commissioner. Representative Williams said:

The only means by which the Filipino people can reach the American people in any authoritative form is by giving their Commissioners here the right of speech, though, of course, not the right to vote.

A SLIGHT DIGRESSION.

Now, gentlemen, let us make a slight digression. If this were a personal question and not one of principles, the discussion as to whether the representative in question is to represent the Commission or the people, would matter but little to us of the Assembly. We have confidence in the present members of the Commission, and we expect that they would, at all events, look after the interests of the people. But something more than personal satisfaction is involved in this matter, something that does not properly belong to us but to the people. Therefore, must we be pardoned if we insist that it be established for good and all that the Resident Commissioner of whom we are speaking ought to be, and is, the representative of the Filipino people and not of the Commission or Administration.

From our point of view there is some slight confusion in speaking of the Organic Law. This, it is true, provides that each House vote separately, that is to say, Congress has determined the bodies that must choose the Resident Commissioners establishing, at the same time, the form of procedure, but it does not by any means provide that the fundamental nature of the office which is well established and has been repeatedly confirmed for over a century, has been changed, as may be logically gathered from all that has been said.

FAMILIAR FORMS OF GOVERNMENT.

We have examined the debates that took place in Congress when that Act of July 1, 1902, was discussed and passed, and it is to be regretted that we have seen nothing in the record that might explain the portion of the law referring to the Resident Commissioners. Now, if nothing was said about it, the most reasonable supposition is that the Congress, in establishing the Philippine Government, in all its departments and details, had in mind the models before it, the forms of government and enactments that were familiar to it. This opened the fecund field of its free and generous traditions, and having no reason for retrograding in a work to which its honor and conscience were pledged, in a work which, as we have been told and have had repeated to us, is the grandest and most altruistic the ages have seen, its determinations must have been quickened by the traditional ideas of liberty and progress. And in establishing the form of government that it did, "the intention must have been to

adopt the general constitutional principles inherent in the system." Having said nothing at the time of the establishment of the system and of the office of Delegate or Resident Commissioner, the only admissible supposition is that far from a change having taken place in the original idea regarding such office, the kind of popular representation in vogue for more than a century was fully applied to the Philippines.

THE WAR AND POLITICS.

Nor is this all. The congressional enactment of July 1, 1902, was adopted in view of different circumstances which are of the greatest eloquence. The country was at war, and the war was for our liberty, for our national independence. We were struggling, as we are still struggling, although on different ground and by different means, for a government of our own, in which popular representation would necessarily have to be complete. The congressional measure was in many respects a political measure. It contained specific promises, the most important being the granting of an Assembly and the creation of the Resident Delegates. As all have acknowledged, these measures powerfully influenced the result of the war. It was President Taft himself who said that peace was due more to the influence of political promises than to armed action.

You say now that one of these Delegates or Commissioners must be the agent of the Administration or the representative of the Commission. Let us tell you in answer that this theory is an unfortunate one, first, because it robs of their value the promises, solemnly made, which can not be withdrawn; second, because it is an offense to Congress. In 1902 it was not to be supposed that the Commission and the Assembly would come to an understanding during the first years of the existence of the latter, nor was it to be supposed that when they did reach an understanding, the two Delegates, one representing the people and the other the Government that had been imposed upon him, could do otherwise than work at cross-purposes. This would show either little political foresight, a thing not to be imputed to the Congress, or a deliberate purpose to dazzle our eyes with the glamour of a representation that would later prove false. We can not accept this supposition.

The interpretation that the two Commissioners or Delegates are such from the people and not from the Government or the Legis-

lature is the most natural one in consideration of the state of war that existed before and during 1902. The country in arms was attracted by the promises made, and by the argument that demands for liberty could be made under a liberal constitution like that of the United States, within the pale of the law. But the law points to no way than that which leads to Congress, and if Congress can usurp the representation of the Filipino people, then the most solemn promises will have been violated and the right to be heard will have become illusory.

OTHER REMARKS.

If we did not fear to be tedious, we would continue with our remarks. One of them is that many of the leading men responsible for the promises and concessions made in 1902, gave considerable weight to the establishment of the Assembly and the creation of the Resident Delegates as a real and effective step toward self-government. If I am not mistaken, President Taft himself was of this opinion. We now think that the sending of a representative to Washington, in the name of the Filipino people, who is not a representative of the people, but the creature of the Administration or of the Government, is no advance toward self-government.

The interpretation that the Delegate in question represents the Government or the Administration leads to other consequences wholly inadmissible. It lays down the principle that the Government needs to represent itself. Aside from the general theory that representation supposes the people, and not the government, that of the United States, or rather, the Commission, which represents it in the Philippines, does not need any representative in Washington. If the Commission maintains that it is merely an extension of the Government of the United States, we do not see why nor wherefore it should need any agent near the authorities of which it considers itself to be the agent or delegate. In reality, the Commission has already had some very good and very powerful representatives in Washington whom it can make use of it should ever need them, without the need of securing any Philippine Delegate for this purpose.

LOYALTY OF THE COMMISSION.

The Assembly members of the committee admire the loyalty of the Governor-General and members of the Commission to the President of the United States. Loyalty is a virtue and a principle.

It should not be given up by the man who is conscious of his duties and values his reputation. One may choose one cause or the other, but when one voluntarily embraces either of them, the spirit of genuine responsibility and honor itself require attachment and fidelity. We have nothing to say against either. But in the matter under consideration we believe that the Commission is not in the right, that it is mistaken. It interprets as its duty what is not its duty. Probably the error has arisen from the complicated part that the Commission plays at present in our Government.

With a little thought, however, the error can be dispelled. We do not believe that the President requires a creature of his own as the Philippine representative in Washington. He may, as a man, and as we and all of us do, feel inclined toward this or that person; but as President of the United States he can not and must not and will not force upon himself a man of his own for the simple reason that in order to know his own ideas and to act according to his own convictions, the President is sufficient unto himself. He needs no representative. Let us put aside the important question that in a government of principles and not of men, the departments of the government must be separate, and to be so, must preserve their independence of action, limited only by the law and by good administrative practice. It is sufficient to say, as answering no purpose, that the plan of selecting a Delegate in the Philippines, in order to send him to the United States, who in reality represents no one but the President, is completely ineffective and useless.

RESPECT FOR THE STATESMAN.

We are reluctant to attribute to the President ideas that contain the most absurd possibilities. Whatever may be his political convictions regarding the Philippines and the difference of opinion that may exist, principally in matters of fact, between him and ourselves, we have only respect for a man who here accredited himself as a politician and a statesman. In time the turbid whirlpool always resulting from political waters will calm down, the power will pass away from a man who now occupies the highest post in Washington and who will naturally have to hand it over to another when the moment comes; but it can not be forgotten that he who was Governor Taft has left here something done, fundamental and lasting. Aside from all political controversies, and without

saying who is right in these controversies, it can be admitted without hesitation or dispute, that the present President of the United States has laid here with his own hands and cemented with the sweat of his own brow, the foundations of an institutional government. The first Civil Governor of the Philippines also contributed greatly to the granting by Congress of the Philippine Assembly and the Resident Delegates. If this is so, and it is so, the conclusion is that the President can not advocate theories that destroy the foundations laid by him and belittle the concessions that have cost him work, the magnitude of which he has not denied.

Much more could be said of the matter, which is by no means exhausted, and which requires for its complete development a descent and examination into the minutest details of the Government instituted here and of the circumstances that led to its establishment, but what has been said is sufficient to refute the fundamental argument of the Commission in designating the Resident Commissioner whose election is now under discussion. The principal point with regard to the nature and scope of representation having been settled, all the rest is practically terminated.

THE ELECTION OF SEÑOR LEGARDA.

For this reason we shall be very brief in dealing with the two remaining points. The first is with reference to Mr. Legarda's election itself. Granting the principle that the Resident Delegates are representatives of the people of the Philippines and not of the Commission or the Assembly, Mr. Legarda can in no way be elected Resident Delegate. This, saving our respect for Mr. Legarda personally.

On the outside, where the wind blows to suit all tastes, we have heard some remarks relating to some special representation of some special class by Mr. Legarda. But we have heard nothing of the kind here and, on the other hand, it is such a trifling matter that we do not believe it should be taken under consideration at all. This matter of the aristocracy is a thing that has passed into history. It conflicts with the present social and political organization of the Filipino people.

Leaving this to one side, we repeat that we can not accept the election of Mr. Legarda, knowing that the result of the last ballot taken by the Assembly was unanimously against him and it would

therefore be impossible at this time to maintain that Mr. Legarda is acceptable to any of the political parties of the Philippines. If no political party supports Mr. Legarda; if he can not legitimately voice in Washington any opinion except his own; if the interests that he represents are not the interests of the people, then the conclusion is that however highly we of the Assembly may esteem Mr. Legarda for his personal endowments our duty would be in any case to realize that the sending of Mr. Legarda to Washington at this time would be entirely useless. It is the Filipino people, and no one else, whom the American people wishes to hear through its representatives.

THE POLITICAL PARTIES.

We agree with the Commission in its belief that it is not necessary for us to make this a party question. Otherwise, the party of the majority, which is considerable, might suppose that the Commission was making an appeal to its egoism. Such an appeal might prove to be a temptation, for in making the party realize that the field is almost entirely ours, we might conceive the thought that the two Delegates should be chosen from the ranks of the majority. Nobody can deny that this would be the result if the vote were direct.

Wherein we do not agree with the Commission is that the designation of the Commission can be made without consideration of any political party. Laying aside for the time being the requirement, which is not unreasonable, that the Delegate nominated by the Commission should belong to the party of the majority we think that the requirement that said Delegate should be an active member of one of the recognized political parties and should, moreover, be indorsed by the same, is inevitable. The office of representative, whether in Washington or elsewhere, is essentially a political office. In all political matters the political parties should at least be consulted. Either the sphere of action that by right belongs to the political parties should be recognized, or they are superfluous and should be dissolved. No one, however, doubts that in a government such as ours the political parties are necessary. "In America the great motive forces are the parties. The Government means less than in Europe because the parties mean more." This is so elementary that we do not believe it should be discussed at all. The Commission members of the committee will doubtless recall

that it was the first President of this same Commission who three years ago, being here on a visit as Secretary of War for the purpose of opening the Assembly, maintained that it was as impossible for the Government to dispense with the political parties, as for the Government to consult each and every one of the eight millions of inhabitants that live in the Archipelago in order to fulfill its mission of learning the opinion of the people.

POLICY OF THE MAJORITY.

We therefore wish to say that if the Commission should prefer, as is probable, to choose one of the minority, it is our opinion that the designation would meet with fewer objections if it should fall upon a person of sufficient proved popular representation who, being acceptable to the majority, would receive the full support of the minority. The majority does not hereby announce a new policy. Similar concessions have been made on other occasions and the present one accords well with our policy. The majority has never excluded the minority. It has always proved that it desires its coöperation as well as its criticism. In its work, the majority has constantly listened to the voice of the opposition, which it has never stifled. Despotism alone fears opposition.

WILL THE HARMONIOUS RELATIONS BE DISTURBED?

In conclusion, we will repeat what we have said before: That we, the Assembly members of the committee, are deeply interested in reaching a just and reasonable agreement in the present differences between the Assembly and the Commission. We hold to our purpose of maintaining good relations between the two coördinate branches of the Legislature. We do not wish to sever these relations. We are not unaware that in situations analogous to that in which our country is now placed, in other places violent conflicts between the Houses have been of frequent occurrence and there have been cases in which the people have availed themselves of such ruptures in order to secure something from the Government. On the other hand we are not unaware that the goal of the highest aspirations in the popular governments with a legislature consisting of two houses is the securing of harmony and balance between these two Houses.

These good relations have cost sacrifices in the past. They require for their maintenance all our good will at present. They

show what is well known, namely, that quarreling is easy and that the difficult thing always is to come to an understanding by means of just and mutual concessions.

But let it not be forgotten that these good relations, in order to be lasting, must have a solid basis—justice. As supporters of this policy of coöperation, the first inspirations of which we have seen in the people whence we come and whom we represent, we now repeat that it is our most fervent desire that these differences be satisfactorily adjusted. The present members of the Commission, who have responded to the attitude of the Assembly with so many proofs of kindness and tolerance, will surely aid us in this patriotic labor.

THE PEOPLE ABOVE ALL THINGS.

Nevertheless, this question involves an important principle, namely, the principle of popular representation, sanctioned by law especially in the establishment of the Philippine Assembly and the creation of the Resident Commissioners. This is the most sacred thing left to us of those struggles for liberty in which so many of our men have fallen. This principle of representation represents a right of the people. Do not ask us to abandon it, as it is not ours. Do not invoke harmony to induce us to compromise; invoke it for what is proper, reasonable and just; because harmony on our part in order to be a virtue and not a crime, must be not to the detriment but to the advantage of the rights of the people.

The only way in which we can solve this question is by preserving the principles and not by destroying them. Just as our attitude in this matter has been conciliatory throughout, so must it be firm and unchangeable. The rights of the people are above all things and persons.

**REMARKS BY THE COMMISSION CONFERENCE COMMITTEE,
IN REPLY TO THE SPEECH BY SPEAKER OSMEÑA.**

THE PRINCIPLE ADMITTED.

The members of the conference committee on the part of the Commission have not the slightest hesitancy in admitting the proposition sought to be established by the members of the conference committee on the part of the Assembly, that the Resident Commissioners are representatives of the Philippine people. The Commission does not overlook the fact that according to the instructions of President McKinley the Government established in these Islands is "for the happiness, peace, and prosperity of the people of the Philippine Islands." *The Government here* established represents the Philippine people, and the Resident Commissioners elected by the Philippine Legislature, i. e., the Assembly and the Commission, although immediately representing the Philippine Government, of which the Legislature forms a part, are, in the last analysis, representatives of the people.

THE ASSEMBLY BY ITSELF DOES NOT REPRESENT THE PEOPLE.

It is well at this time to emphasize the fact that neither the Philippine Assembly, nor the Commission, as part of the Philippine Legislature, separately constitutes an official body with functions of its own. The two bodies must be united to constitute a branch of the Government representing the whole people. The Assembly alone does not represent the people or the Government, nor does the Commission alone represent the people or the Government. The Assembly and the Commission together represent the Government and the people, the interests of both being in common and not opposed to each other. The Commission, although appointed by the President, is charged with the duty of seeing that the Government here established is for the benefit of the whole people; and the Assembly, although elected by the people, must not forget

the fact that its authority emanates from the sovereign power, which has granted to a part of the inhabitants of these Islands the right to elect their representatives in the Assembly.

It should not be forgotten also that, although participation in the Government has been granted to the Filipinos, self-government has not been entirely established in these Islands.

ORGANIZATION OF THE LEGISLATURE.

The Congress of the United States believed it well to give the Philippine people some participation in the legislative power; but at the same time did not deem it advisable to provide a legislature composed of two elective houses. To this is due the organization of the Philippine Legislature in its present form, composed of the Commission appointed by the President, and of the Assembly elected by the people. As Congress did not confer all legislative power upon the Assembly nor upon the Commission, so it thought it necessary also to have the concurrence of the two Houses in the election of the Resident Commissioners. The manner provided by Congress for the election of the two Resident Commissioners is a logical consequence of the constitution of the Legislature.

It must be borne in mind that this manner of electing the two Resident Commissioners was adopted by Congress after due deliberation. If the records of Congress with respect to section 8 of the Act of Congress of July 1, 1902, are consulted it will be seen that this section, as originally passed, provided that the two Resident Commissioners should be elected by popular vote; this was reconsidered in conference and this manner of their election did not prevail, but the provision found in the present law was adopted instead. No other reasons in explanation of this section than the ones heretofore stated can be admitted.

IT IS THE LEGISLATURE THAT REPRESENTS THE PEOPLE.

If then it is admitted that the two Resident Commissioners represent the people, and that the Congress in providing the manner in which these Resident Commissioners should be elected did not provide that they should be elected by popular vote or by the Assembly alone, but on the contrary did provide that they should be elected by the Legislature, each House sitting separately, it is

plain that in the mind of Congress not the Assembly nor the Commission alone but the whole Legislature represented the people. The Commission, therefore, equally with the Assembly shares in the power to elect the two Resident Commissioners.

The Commission in designating Mr. Benito Legarda as one of the Resident Commissioners has done so because it believes that he is the one who can best represent the Philippine people. In this the Commission has been guided by its own convictions, born of the knowledge it has of the personal qualities and abilities of Mr. Legarda and of the services which from the establishment of American sovereignty in these Islands he has rendered to the people and to the Government.

THE RECOMMENDATION OF THE PRESIDENT.

It is true that in this, the Commission has listened to the recommendation of the President, after having formed its own judgment, in order to learn if there was anything in the conduct of Mr. Legarda, while in Washington, that would militate against his reelection. The favorable recommendation by the President of Mr. Legarda has strengthened the convictions of the Commission, and therefore the Commission has insisted, and still insists, on the election of Mr. Legarda. By this we wish to be understood as saying that while we take into account the recommendation of the President, yet aside from that we choose Mr. Legarda for the reason that we believe he is the best selection we can make.

In the first session of this conference committee it was stated by the members on the part of the Commission that Mr. Legarda was the one who could best represent the Commission. By this it was not meant that Mr. Legarda would represent only the Commission, but it was meant that, considering the idea of the Commission with respect to the best means of achieving the happiness, peace, and prosperity of the Philippine people, Mr. Legarda was the one who could, in the discharge of his duties as Resident Commissioner in Washington, best represent the people according to the views of the Commission. In designating one of the Resident Commissioners, in pursuance of Joint Resolution No. 2 of the Legislature, it is the duty of the Commission to designate the person who in its opinion can best work for the benefit of the Philippine people.

QUALITIES OF MR. LEGARDA.

In the Philippine revolutionary government Mr. Legarda held the position as director of the treasury, and at times acted as secretary of finance in General Aguinaldo's cabinet. Mr. Legarda is one of those Filipinos who from the establishment of American sovereignty in these Islands has worked most for the welfare of the people. He labored for the cessation of hostilities and for the bringing about of peace and the establishment of a stable government. To these ends he acted on many occasions as an intermediary between the Government and the people. He went into the provinces to assist in the establishment of municipal governments, and during the military régime was instrumental in bringing about a better feeling between the military authorities and the people. As we have seen, he has interested himself in all classes, and although himself a wealthy man, has on not a few occasions defended the interests of the poor. He was a member of the Commission from its beginning and is therefore familiar with the work of the Government, the important problems on which Congress is to legislate, and the views of the Commission on these matters. Among the Filipinos he is one of the most distinguished, and is highly esteemed by all social classes. He is a personal friend of the President.

Aside from all these qualities it should be borne in mind that Mr. Legarda also represents the Philippine commercial and industrial interests, and the Commission is of the opinion that these interests should be represented in the person of one of the Resident Commissioners, some one who has engaged in business successfully, and who has high standing and influence among those engaged in manufacture, transportation, banking, and commerce.

As was stated in the first session of this committee: "We know of no man who combines all of these qualities in the same degree. We therefore believe that the Commission can do no better than to designate Mr. Legarda." If the Commission had had in mind only the commercial and American interests in these Islands, or if it were desirous only of sending one who represented the ideas of the President, an American merchant might have been selected, but no such attempt has been made. On two previous occasions Mr. Legarda has received the vote of the Philippine Assembly for the position of Resident Commissioner, on the last occasion the vote

being unanimous. We know of nothing which has transpired since that time which renders him less representative of the Philippine people: but, on the contrary, we believe that the fact that he has rendered faithful service to his country in this position has better equipped him for this service. Upon returning from the United States at the close of the last session of Congress he was given a reception at the hands of his party, upon which occasion he received an ovation, the greatest sympathy and consideration being shown him. The Secretary of War was present, as were the highest Government officials and representatives of nearly all classes of Manila society. Upon the first vote taken in the Assembly to accept the designation by the Commission of Mr. Legarda for Resident Commissioner, all the votes of the Progressists present were cast in his favor. The Commission is not aware of anything that Mr. Legarda has done since to cause any change in the opinion of those members of his party who at that time voted to accept his nomination, and who have recently voted against such nomination.

CONSIDERATIONS REGARDING POLITICAL PARTIES.

We think it can not be successfully contended that the two Resident Commissioners should necessarily be members of either the majority or the minority party of the Assembly; that is to say, either Nationalist or Progressist. It is the Commission's duty to look after the welfare of all the inhabitants of the Islands, the great majority of whom by reason of their limited suffrage have no way of expressing their political preferences. Many of those who do vote are not affiliated with any political party. Without doubt this is one of the reasons why Congress has provided for the Commission in legislative matters and in the designation of the Resident Commissioners, since otherwise the interests of such persons might be overlooked.

The ultimate result of the theory that the two political parties represent the Philippine people would be that both representatives would belong to the Nationalist party, since according to the contentions of the majority leaders that party expresses the will of the people. The Assembly, however, admits that one of the representatives may belong to the minority party. We fail to comprehend how, after arriving at this point, they do not admit the candidate

proposed by the Commission, as the Commission represents one-half of the power which appoints the Resident Commissioners, while the Assembly minority does not even represent one-fourth part of one-half of such power.

RESULT OF A DEADLOCK.

As stated in the beginning, the Assembly has a perfect right to reject the candidate nominated by the Commission, the same as it has a right to reject a bill passed by the Commission. But the Assembly will not fail to admit that the Commission also has the right to maintain the candidacy proposed by it. If the Commission should now give way for the reason, as alleged by the Assembly, that the Commission's candidate does not represent the people, it would be equivalent to the Commission in legislative matters accepting any legislation proposed by the Assembly simply because it was alleged that the same was in the people's interests although the Commission might not be of such opinion.

If each House should maintain its position in this deadlock, the result will undoubtedly be that there will be no election of Resident Commissioners. In view of the fact that the Commission, representing one-half of the power which elects the Resident Commissioners, has accepted the candidate nominated by the Assembly, nothing could be more equitable and just than that the Assembly in turn should accept the candidate nominated by the Commission.

**REMARKS OF THE ASSEMBLY CONFERENCE COMMITTEE,
IN REPLY TO THE REMARKS OF THE COMMISSION CON-
FERENCE COMMITTEE.**

CONGRATULATIONS OF THE ASSEMBLY.

The Assembly members of the conference committee congratulate the representatives of the Commission on their wise decision to accept, as they have accepted, the principle laid down that the Resident Commissioner in question is a representative of the Philippine people. In their original contention explaining and supporting Mr. Legarda's nomination, this was an essential point. It can almost be said that the only argument adduced by the Commission at that time was that Mr. Legarda was wholly identified with the Commission and the Administration and that the Commission had nominated him because it thought that it should select, considering the nature of the office of Resident Commissioner itself and the origin of the appointment in the Commission, a person who would represent the Commission or the Administration in Washington. It would now appear untenable for the representatives of the Commission to still insist upon Mr. Legarda's nomination, having conceded the main issue and thus left the nomination without anything upon which to rest. Their attitude may, however, be explained, first, by the fact that the acceptance on the part of the representatives of the Commission of the principle laid down by the Assembly committee does not seem to be complete and, secondly, that it is now contended, as a new argument, that even granting the principle established that the Resident Commissioners do represent the Philippine people and not the Administration or the Commission, Mr. Legarda can represent said people.

Although under strict parliamentary rules no new argument should now receive consideration, still the practice that has sanctioned certain freedom in the proceedings of conference committees

authorizes the Assembly committee to proceed with ample power to meet any new arguments of the Commission committee. But before taking up new matter, it appears expedient to state definitely the concessions made by the Commission's representatives.

THE DILEMMA.

The principle laid down by the Assembly can not be accepted with qualifications. Either the Resident Commissioner in question is the representative of the Philippine people or he is not. There is no third course that leads both to the affirmative and to the negative proposition.

The representatives of the Assembly maintained in their first reply that the Resident Commissioner under discussion represents the people, and not the Government, because, among other reasons, the nature of territorial representation has always been associated with the people and not with the Administration or the Government. Instances were cited, and in all of them the same principle was maintained.

TERRITORIAL REPRESENTATIVES, AS SPOKESMEN OF THE PEOPLE.

There is no necessity of citing other instances. The Congressional Record is full of precedents. From Delegate White, whose status was discussed in the Third Congress to the Delegates from the latest contiguous territories, and from these to the Philippines, the consideration given the territorial representatives has been the same, to wit, that they were the agents and spokesmen of the people of the territories.

It does not matter whether the territory may have been organized under the original ordinances of the Continental Government or under the Act of March 26, 1804, of the Federal Congress, the model Act upon which all subsequent territorial organizations have been based. The difference in the election of such Delegates, who were sometimes chosen directly and at other times indirectly, has not changed the representative principle; that is, its popular nature. The idea of representation has remained unchanged. In fact, the power, privileges, and consideration subsequently given Delegates from Territories which were more liberally organized from 1836 on, have had no other origin than the concessions granted to the first Delegates, who came from the territorial government of a less

advanced form and who were elected, not by the people directly, but by the local legislatures composed of two Houses, one chosen by popular election and the other by appointment.¹

It is certain that territorial representations, in one form or another, have always been considered as organs by which the opinions and wishes of the people of the territories might be communicated to Congress.

THE INSTRUCTIONS TO THE SCHURMAN COMMISSION.

In our first reply we said: "Congress, in establishing the Philippine Government, in all its departments and details, had in mind the models before it, the forms of government and enactments that were familiar to it." The form of government to which Congress resorted was evidently the territorial form, which was that recommended by the Schurman Commission.

From the very outset, it will be safe and desirable, in the opinion of the Commission, to extend to the Filipinos larger liberties of self-government than Jefferson approved of for the inhabitants of Louisiana * * * the territorial form of government is to be adapted. (Report of January 31, 1900, p. 109.)

The Secretary of War, Mr. Root, speaking of the recommendations of Mr. Schurman, or rather of the Commission presided over by him, said the following in his report of 1901, pages 50 and 51;

The government was a government of military occupation * * *

Such a government is always unsatisfactory * * *

It was accordingly [and] as the fundamental step in giving the substance of civil government to the people of the Philippines that there should be a separation of these powers and it was determined that that part of the military power which was legislative in its character should be exercised by civil agents proceeding in accordance with legislative forms, while the judicial power should be exercised by courts established and regulated by the enactments of the legislative authority. The President accordingly, on the 16th of March, 1900, appointed the second Philippine Commission. And on the seventh of April, 1900, formal written instructions were given to the Commission, which defined their powers and formulated the policy which was to be followed in the gradual development and conduct of civil government in the Philippines.

¹ See, among other cases, that of David Lebby, of Florida, Twenty-seventh Congress; that of Reeder *vs.* Whitfield, of Kansas, in the Thirty-fourth Congress; that of Fuller *vs.* Kingsbury, of Minnesota, Thirty-fifth Congress; that of Maxwell *vs.* Cannon, of Utah, Forty-third Congress; that of Campbell *vs.* Cannon, of Utah, Forty-seventh Congress.

These instructions are well known. They have been regarded as the cornerstone of the new edifice of civil government, anomalous at the beginning, from being a mere creation of the President in the exercise of his military authority as Commander in Chief of the Army and Navy of the United States, and from having the military governor as the chief executive. The following portion of these instructions shows that Mr. Schurman's recommendations were taken into consideration, when they were prepared :

They [the new Commissioners] will avail themselves, to the fullest degree practicable, of the conclusions reached by the previous Commission [the Schurman Commission] to the Philippines.

CONGRESS APPLIED THE TERRITORIAL FORM OF GOVERNMENT TO THE PHILIPPINES.

Congress was familiar with the recommendations of the Schurman Commission and when it passed the Act of July 1, 1902, confirming in their entirety the instructions of President McKinley and completing the scheme of government outlined in those instructions, evidently applied to the Philippines the territorial form of government to which Americans were accustomed. This form has always been adopted on taking possession of a new territory ceded, or acquired in any other way. Moreover, it was this form which was expressly recommended for the Philippines by the officials responsible for the Administration at that time.

The mere fact that Congress deliberately applied the territorial form to the Philippines justifies the conclusion that, as in the case of the Territories of the Union, the Delegate or Commissioner from the Philippines represents the people and not the Government.

THREE CAPITAL DIFFERENCES.

But there is something else. While it is true that the form of government applied to the Philippines is modeled after the territorial organization, yet there are points and facts upon which our attention should be fixed, giving rise to three differences of political and ethnic nature, which, in our opinion, strengthen our conclusion. These differences are: (a) The difference in race and the inequality of population. The race in the United States was American, and the inhabitants of the Territories were also Americans or related to them. The race in the Philippines consists almost entirely of Filipinos. Invariably the population of the Territories was about five thousand while on the other hand the

population of the Philippines exceeds eight millions. (b) The interests of the Territories were in the long run those of the Union, while the interests of the people of the Philippines are not only not identical with the interests of the Union but appear to be opposed to them. The struggle to secure a limited market in the United States for Philippine products is an illustration of this difference or antagonism. (c) The government of a Territory is a provisional organization and the necessary preliminary for the subsequent conversion of the Territory into a State of the Union, while the anomalous organization of the Government of the Philippines, if provisional, is so for the subsequent conversion of the Philippines into an independent Philippine State and not into an American State of the American Union.

A LEGITIMATE INFERENCE.

If the need has been recognized that Territories identical in race and interests with the States of the Union, have representatives at Washington, we are unable to understand how even the most elementary rule of justice could be followed without granting at least the same representation to the people of the Philippines, situated as they are at a distance of more than 6,000 miles from the sovereign country, placed under the control of a foreign government merely by the fortunes of war, and while on the one hand the race that inhabits the Philippines differs entirely from the race in the sovereign country, on the other hand the interests and supreme aspirations of each people may likewise be in complete discord.

Without evasions or reservations of any kind the principle must be accepted that the Delegates from the Philippines represent the Philippine people in America. This is only just. To make of the Philippine Delegates representatives, in the first place of the Government and in the second of the Philippines, merely leads us to the most absurd results and places the Delegates in an impossible position in the performance of their official duties. We do not wish to reiterate the arguments we adduced in our first reply, which demonstrate why the Philippine Government or the Administration does not need to send representatives to Washington. What we wish to add to what we have already said is that if it is conceded that the Delegates represent first the Government and then the people, the consequence would be that

the action of those Delegates should be subject to the Government and not to the people. So convinced are we that the Philippine Delegates do not depend upon or represent the Government that we believe that they could not even be compelled to comply with the instructions of said Government, if such instructions should be given. Nor is this all: Let us suppose a case in which in certain questions pending in America, the opinion of the Government should be contrary to the opinion and to the desires of the Philippine people, then, in that case, we do not hesitate to affirm that if the Delegates wished to perform their duty, they could not do so, except by placing themselves, before the government of the sovereign country, on the side of the people, even though they did so contrary to the wishes and recommendations of the Government.

THE CASE OF THE PAYNE BILL.

A recent case may be cited in support of this opinion: the Payne Bill.¹ Without examining the matter thoroughly and without deciding whether the people were right or not, it is certain that the people did not want it. Yet the Government, in the sovereign country as well as here, resolutely supported the bill. A fine proof was given that democratic aspirations have not been wholly stifled, when the Government appealed to the people. All the means within the reach of the Government and its agents were employed to secure some popular support for the bill. Although some adhesions, the origin of which was known, were forwarded to the Assembly, it was not possible to distort the popular will, which was revealed in energetic protests, which were echoed in the popular House, and the thought of the people was given clear expression. The representatives refused to accept the bill, while the Commission indorsed it favorably.

Let us now see what the Delegates did. There is no need for speaking of what was done by the Delegate whose nomination came from the Assembly. As was to be supposed he opposed the bill. With reference to the other Delegate, he whom the Commission would now, if we accept its theory, call its own, joined the Delegate nominated by the Assembly, which indicates that the Delegates themselves understood that they were representing the people, and demonstrates that in such cases as this, in which

¹ First Philippine Legislature.

the interests of the Government or the Commission and the people conflict, they believe that their duty is to place themselves, as they did then, on the side of the people.

The Commission did not protest against this conduct of the Delegate designated by it, conduct which, in accordance with the principles maintained by the Commission, might have been and ought to have been characterized as inconsistent; it again chose said Delegate when the occasion presented itself; and its present attitude demonstrates anew, in the last analysis, even though the Commission may not think so, what it denies, namely, that the Delegate in question does not represent it, or the Administration, or the Government, but represents the people.

THE ORIGIN OF THE OFFICE IN THE LIGHT OF HISTORY.

The principle laid down is so plain that it does not require fresh demonstration. And as what we alleged in our first reply still holds good, we believe that we are relieved from making a new and complete examination of the question, which would at least be interesting, to wit, What is the origin of the office of territorial Delegate, created by the Ordinance of 1787? We have only to refer to history. We would not present arguments of our own. The fathers of the great Republic would come to our aid, the same who so often fought and poured out their blood to free America from the domination of England.

In the light shed by the history of more than a century following 1787, it has been easy to assert the mooted, but denied, popular representation of the Philippine Delegates in Congress. It would be much easier to study the nature of this office in its more remote origins, lost amid the shadows of a colonial past, which like the American colonial past and every other colonial past was a sorrowful past.

The representatives of the Commission will without any effort remember that the American colonies sent their agents to the English court, the office having been permanent after 1670. Virginia probably originated this. The agents attended sessions of Parliament, appeared and testified in the hearings of the privy council of trade and plantations, or of the board of commissioners of commerce and plantations and, in a word, looked after the affairs of the colony and the support of its claims with the Government of England.

These colonial agents, whence originated later the territorial delegates when America became independent, did not represent in England the government but they were, as later were the delegates of all the American territories, as now are the Delegates from Porto Rico and the Philippines, representatives of the people. To better appreciate this fact, it must not be forgotten that the blood which flowed in the veins of those who governed in England and in the colonies, was the same blood as that of the American colonists, who had settled in America under the authority and with the consent of England.

WE WANT A PRECISE ANSWER.

After dealing with several other matters, the representatives of the Commission proceed to support the nomination under consideration. Their argument is an able one. It grants, not destroys, the Assembly's theory. It tends to demonstrate the representative character of the person nominated. But while this appears as the basis of the defense as well as in other portions of the carefully prepared brief of the Commission, the assertions contained on the first page of that document stand, assertions, which accept and at the same time reject the principle of popular representation.

We admit that we are obsessed with this principle. We can not go on without a categorical and definitive answer. Without fixity of ideas, without determining the sphere in which each moves, this discussion would be interminable. We therefore request the representatives of the Commission to define, without evasion or ambiguity, their attitude, by definitely answering this question: Does the Delegate under consideration represent the people or not?

We desire a definite answer, before proceeding in detail to the examination and consideration of the new arguments of the Commission members of the committee. •

At the close of our first reply we used these words: "The only way in which we can arrange this matter is by preserving the principles and not by destroying them." By reasonable concessions in this discussion of principles, the atmosphere will be cleared and the conference committee can, with injustice to none and with honor to all, enter resolutely upon the way of saving and productive understanding.

STATEMENT BY THE COMMISSION COMMITTEE OF CONFERENCE ON THE ELECTION OF RESIDENT COMMISSIONERS.

The members of the conference committee on the part of the Commission do not feel that there is either inconsistency or ambiguity in their position. They agree with the members of the conference committee on the part of the Assembly as to the necessity that Resident Commissioners to the United States should be representatives of the Philippine people. Under the terms of the law each House must be the judge of the representative character of its candidate. The Commissioners are firmly of the opinion that Mr. Legarda fills the requirements of the position admirably and that the very fact that he has been twice elected for this position by the Assembly, the second time by unanimous vote, is a powerful argument in his favor, as the qualifications for Resident Commissioner were the same then as now and the necessity just as great for the election of men representatives of the people.

REPLY OF THE ASSEMBLY CONFERENCE COMMITTEE TO THE LAST STATEMENT OF THE COMMISSION.

THE SITUATION IS CONDUCTIVE TO A FRANK UNDERSTANDING.

The admission that the Resident Commissioners are representatives of the Philippine people clears up the situation and leads our steps towards a frank understanding. This will come, if we are consistent, by the withdrawal of the candidateship proposed by the Commission and rejected by the Assembly. This which appears gratuitous, is a most logical proposition, if a careful examination is made of the questions raised by the managers on the part of the Commission. We shall not develop any other ideas or arguments. We shall not enter upon new paths. We shall confine ourselves to following, step by step, the statements made by the Commission itself.

To represent the points in concrete form, we maintain:

(1) That the Commission does not represent the Philippine people;

(2) That the Assembly does represent the Filipino people and is their sole representative under the present form of government; and

(3) That the Government here established does not represent the Philippine people.

Popular representation can come only from the people. It can be conferred directly or indirectly, but does not spring from itself or from extraneous impulse, however great this impulse may be and however worthy of respect the powers derived from it may be, if such powers do not come from the people. For this reason we can not conceive the idea of representation apart from the idea of the people. Take away the will of the people and representation will cease to exist.

THE DEFECT IS FUNDAMENTAL.

1. We would wish the Commission to have, not only our respect, but also our affection, and not only our affection but also the affection and representation of the people. Being collaborators in a form of government which having been imposed upon the

Philippine people by circumstances beyond their control, they would like to change into a government of their own, reflecting their image and stimulating their ideals, we would desire the other branch of the Legislature to support itself upon, and be supported by, the people. However this is impossible. The vice is fundamental; the defect is irremediable. The Commission does not receive its powers from the people, and so long as it continues organized as it is, and is appointed, as it is now, and not elected, it can not justly lay claim to any popular representation. The theory advanced by the managers on the part of the Commission that the Commission represents the people is, therefore, absolutely false.

It seems that all that has given rise to the error is the fact that President McKinley, in his instructions to the Commission, said that the government to be established here must be for the happiness, peace, and prosperity of the Philippine people. We maintain that these words, which honor him who wrote them and show a lofty purpose, do not, under any theory of government, confer popular representation upon the Commission. They mean that the Commission must, as a duty inherent to its mission, look after the happiness, peace, and prosperity of the Philippine people, and nothing more. They mark a limit to the powers conferred and establish fundamental precepts which can not be disregarded without violating the very principle from which all the power conferred is derived. But neither President McKinley nor even Congress could give the Commission or the Government of the Philippine Islands a character that they themselves did not possess. They could not convert their representatives or agents into representatives or agents of the Philippine people, for the simple reason that their authority did not emanate from that people.

WE LOOK IN VAIN FOR THE SACRAMENTAL PHRASE.

These considerations are not gratuitous, but are supported by the most generally accepted ideas in constitutional law.¹ The very political instrument invoked by the Commission, President McKinley's instructions, is in our favor. Let it be remembered who wrote these instructions, and for what people they were written.

¹ "The maxim which lies at the foundation of our government is that all political power originates with the people * * *. Thus all power possessed by the people themselves is given and centred in their chosen representatives." (*Gibson vs. Mason*, 5 Nev., 283, 291.)

Let not the circumstances that gave rise to the establishment of the new foreign government be forgotten. Let all the facts of the case be put together, and, without any effort, the conclusions will be reached at which we have arrived with regard to what the Commission stands for.

We prefer to draw a veil over what belongs to the past. Nor shall we discuss abstract principles of constitutional law. We will not make use of arguments with which Americans are little acquainted. We will accept, for the purposes of this discussion, the established government here as an established fact, forgetting how it was established, and turning our eyes from the great and beloved remains of our past, the vast ocean of spoils of battle, upon which the new edifice has been erected on which we look in vain for the sacramental American phrase, the basis of all government: "The consent of the governed."

THE ORDINANCE OF JULY 13, 1787.

Let us go down to the very bottom of this government and without hatred or rancor coldly and calmly, examine within the theories on which it rests what it is that the Commission represents. An investigation so made will be free from bias. The pages of one's own history can be neither unknown nor denied.

The Philippine Islands being neither a territory nor, properly speaking, a colony, it can not be gainsaid that the present form of government is in many respects, as we submitted in our first two replies, substantially of the type of territorial organization. The Act of Congress of July 1, 1902, is, at bottom, the ordinance of the Continental Government of July 13, 1787. It is a well-known fact that from this ordinance all the forms of territorial government have developed, and the legislation of these, which we have revised step by step, seeing that it comes from the same source and has the same precedents, involves, as is no more than logical and natural, identical ideas and substantially the same principles.

WORDS OF JAMES MONROE.

While, on the one hand, the real precedent for the present government of the Philippine Islands is the type of territorial government, the legitimate source of this form of government was the colonial government which prevailed in America before the

Revolution. The Ordinance of 1787 is traced from the form of government proposed in the report presented to the Congress of the United States by a committee thereof, presided over by James Monroe, who was afterwards president of the United States, and who, in writing on that subject to Jefferson, then in Paris as minister, said:

The outlines are as follows: Congress are to appoint, as soon as any of the lands shall be sold, a governor, council, judges, secretary to the council, and some other officers; the governor and council to have certain powers until they have a certain number of inhabitants, at which time they are to elect representatives to form a general assembly, to consist of the governor and council and said house of representatives. *It is, in effect, to be a colonial government similar to that which prevailed in these States previous to the revolution*, with this remarkable and important difference that when such district shall contain the number of the least numerous of the thirteen original States for the time being, they shall be admitted into the confederacy.

While the Commission, in this Government, is a copy of the council in the government of the territories, such territorial council was but a copy of the local councils during the American colonial period. The present Philippine Assembly, as a body which has been grafted upon, this form of government by such conflicting and complex circumstances, from the point of view of the Filipinos, is a continuation of the Philippine Congress, and from the point of view of the established government and of its history it is a copy of the house of representatives of the territorial governments as well as of the former English colonial government in America.

It would be useful, consequently, to examine, together with the different types of government indicated, the legislative bodies that have been mentioned. And if after examination it should appear that the appointive local councils represented the people, we would be obliged upon our faith as gentlemen, to amend what we have maintained, namely, that the Commission does not represent the people. If, on the contrary, it should be established in a clear and definitive manner, that such local councils never represented the people, but that the representation of the people has always been acknowledged to lie with the popular assemblies or houses, and has been concentrated in the same, then our conclusions can not be ignored or denied without disregarding right and justice.

A CURSORY EXAMINATION OF THE GOVERNMENT OF THE COLONIES.

What was the type of government prevalent in the American colonies before the Revolution?

The governments of colonies can, according to Blackstone and Story, be divided into three kinds, all similar in their essential points: Provincial governments, proprietary governments, and chartered governments.

Under the first kind, the crown or the king appointed a governor as his deputy or lieutenant who, besides being chief executive, was chief of the army, the judiciary, and the administration. The crown also appointed a council. The council, aside from its legislative functions, had to assist the governor in the exercise of his power. The governor called together the representatives of the freemen, and the governor, the council, and the delegates from the plantations formed the colonial assembly.

Under the proprietary governments, the king did not appoint the governors. These were appointed by the proprietor. It was likewise the proprietor who appointed the council and called the assembly.

The chartered governments resembled the provincial governments. The governor and the council were not appointed by the king, but by the general assembly. The people elected the house of representatives. In Connecticut and Rhode Island "the planters and all officers elected by popular authority elected annually the governor and likewise appointed the council and the assembly."

Laboulaye, in analyzing these classes of government, says:

This shows the uniform plan according to which the colonies were organized, whatever the difference of origin might have been. Everywhere we have the same: a governor, a council, and a house of representatives; in other terms, a copy of the English organization: king, lords, and commons, or the model of the future federal organization: president, senate, and house of representatives.

This copying so to say, of the English system in the American colonies, to which Laboulaye calls attention, was justified. The systematizing of the colonization in Virginia took place between the years of 1606 and 1625. The English methods of administration then prevailing in its dependencies¹ consisted of an admin-

¹ Ireland, the Channel Islands, and the Isle of Man.

istration of the King assisted by his council, by means of a royal governor assisted by a royal council, with the concurrence of an assembly representing the people.

This was in compliance with the rule, to wit, that, as has always been said, nations reproduce in their colonies the types of the theory and practice of government prevalent in the sovereign country.

THE VIRGINIA CHARTER.

After this summary review of the form of government of the colonies, we now ask :

What did the appointed local councils and houses of representatives represent in the colonies?

The Virginia Charter of 1606—the first in the premises—appears to have instituted this local council as an advisory body to the governor of the colony, in the same manner as there was in London a central council for the management, under the supervision of the King, of colonial matters.

With regard to this, the charter said the following :

There shall be a council, established here in England, which shall consist of thirteen persons, to be for that purpose appointed by us, our heirs and successors, which shall be called our council for Virginia; and shall, from time to time, have the superior managing and direction, only of and for all matters that shall or may concern the government, as well of the several colonies as of and for any other part or place, within the afore-said precincts of four-and-thirty and five-and-forty degrees above-mentioned.

With regard to the local councils, the same charter said :

Each of the said colonies shall have a council, which shall govern and order all matters and causes which shall arise, grow or happen, to or within the same several colonies, according to such laws, ordinances and instructions as shall be, in that behalf, given and signed with our hand, sign manual, and pass under our privy seal of our realm of England; each of which councils shall consist of thirteen persons.

It goes without saying that such a charter was not to the liking of the colonists. Completely deprived from any participation in the government of the colonies, they protested. The King thereupon granted Virginia another charter, in the year 1609, giving to the administration of the colony a form entirely similar to that of the mercantile guilds existing in London. This system proved a failure, and in 1611 Virginia was given another charter which did not prosper, either. In the year 1621 the president of the company

obtained from the King for the colonists the exclusive right to manage their local governments, empowering the freemen, then called burgesses, to elect their representatives. Under this ordinance the company in England appointed a council for the colony, which constituted the private council or cabinet of the governor. The general assembly of the colony was then constituted of the governor, the council, and the representatives of each town, hundred or particular plantation.

Under this system the King no longer excluded the people from their local governments, but preserved the bond of union with England, by providing that thereafter the Governor and his council should be appointed.

THE PHILIPPINE COMMISSION PLAYS THE PART OF THE OLD APPOINTED COUNCILS.

We have purposely followed the historical development of the colonial government of Virginia, both for the reason that it is the first among the Anglo-American colonies chronologically, and because "with the establishment of the assembly of Virginia we have a regular type of colonial government by means of a governor, a council, and an assembly, such as now exists in the English colonies having self-government."

As we shall advance in this cursory study of American colonial history, we find the end and object of the local appointed councils to be more clear.

On May 23, 1625, King Charles I issued a proclamation for the government of the colonies. The following two principles were established for the administration of the American colonies:

First, that to an orderly administration it was necessary that there should be an imperial council located in England, composed of expert persons appointed by the King, which should be a consultative body for the King when he was exercising the imperial power on behalf of England, and which might also have administrative powers; and second, that the colonies, being separated by distance so that they could not be incorporated into the body of the realm, were to be regarded as States for some purposes.

The distance compelled the English Government to consider the colonies as almost independent States, at least with regard to their internal government and in certain other respects. On the other hand, the circumstance that the colonies had to be subject to the control of the companies or councils established in London, or of

the King, through the former, gave rise to the institution of governor and local appointive council.

The council and the house, with the governor, constituted the assembly which thus united in itself all the powers of the colony. However, imperceptibly there came about a real division of the legislature into two bodies. The council formed the upper house, and the governor had, like the King of England, the right to veto the resolutions adopted by either of the houses.

Commenting on this organization, an American author says:

That, for the purpose of preventing the intrusion of the colonies into the sphere of jurisdiction of Great Britain, it was to be represented in the colonies by a royal governor with power of veto and sometimes by a royal council, and that the King in council should also have the power to veto colonial legislation.

This comment defines perfectly the character of the local councils, namely, that these councils were agencies of the sovereign country in the colonies. It has never been successfully argued that these councils represented the people of the colony. It is observed, however, that the people of the colony could be considered substantially identified with the people of the sovereign country. There as well as in the colony we find the same race, the same language, the same traditions.

Since in the midst of the most favorable circumstances the local councils, which can be considered, and in fact are, the politico-historical origin of the present Philippine Commission, never succeeded in being recognized as representatives of the people, we can not understand how the said Commission can justly claim any popular representation for itself. Inasmuch as the power that appointed it was not derived from the people, which the Commission claims to represent, the government, which has here assumed sovereignty and from which the Commission has received its entire power, has been established without the consent, and even with the open opposition, of the Filipinos.

THE COLONIAL ORGANIZATION A COPY OF THE ENGLISH GOVERNMENT.

2. It appears clearly and evidently that in the time of the American colonies the only popular representation resided in the representatives elected by the colonists.

In the first place, if it is true that, as Laboulaye says, the organization of the colonial government was a copy of that of the English

Government, the House of Commons was doubtless the only body representing the people, seeing that the House of Lords was hereditary. It will be said that this is apparent, because the English theory is that the people is represented by the Parliament, composed of the King, the House of Lords, and the House of Commons. It is to be noted, however, that at the time of the establishment of the American colonies the House of Commons was struggling to obtain real sovereignty in the control of the Government. As early as during the reign of Queen Elizabeth (sixteenth century), she followed the policy "to recognize the House of Commons as an existing and necessary institution, to endeavor to ascertain the part which it ought to play in the Government of England *as the representative of the people*."

As happy crystallization of these ideas regarding representation, the English Parliament in 1649, enacted by means of a law the following:

Be it declared and enacted by this present Parliament, and by the authority of the same, that the people of England, and of all the dominions and territories thereunto belonging, are and shall be, and are hereby constituted, made, established, and confirmed, to be a commonwealth and free state, and shall from henceforth be governed as commonwealth and free state by the supreme authority of this nation, *the representatives of the people in Parliament*, and by such as they shall appoint and constitute as officers and ministers under them for the good of the people, and that without any King or House of Lords.

Whatever may be the theory on which the popular representation of the House of Commons was based, what is of most importance to us is to examine the real representative character of the houses of representatives in the colonies.

The political history of the colonies clearly indicates this popular character of the houses. The royal decrees for the royal provinces directed the governor "to call together and consult the representatives of the freemen or planters." In the proprietary governments the charters expressly provided that "the emigrants were entitled to colonial representation," wherefore the proprietors, besides appointing governor and council, convoked the Assembly. In the chartered governments where the republican system was almost complete (Connecticut, Rhode Island, and Massachusetts), all the offices, from the governor to the representatives, were elective.

This shows that from the point of view of the government of the sovereign country and of the colonists the governor and the appointed council were not sufficient, because they absolutely could not constitute any popular representation of the freemen.

It is essential and important to note the conduct of the latter with regard to this representation.

WHAT LABOULAYE SAYS.

Laboulaye says that two powerful forces more or less unified the working of the administration in all parts the jury and *representation*. With regard to the latter, the author mentioned makes the following statement:

National representation was also one of those privileges or rights of Old England which the emigrants claimed from the first day.

It is worthy of note that all colonies previous to the reign of Charles II *established themselves a free government*, although there was no provision in the charter regarding this particular. Only one exception must be made, if it is really one, with regard to Maryland, the charter whereof contained a clause explicitly establishing national representation.

Virginia * * * was during several years governed by a governor and a council, the appointment or relief of which was not in the hands of the people, but the colony rebelled against this extraneous régime and in 1620, less than fifteen years after the foundation of Virginia, there appeared a house of freemen.

Governor George Yardly of Virginia, in order to calm the state of restlessness and agitation among the colonists, called in 1619 a general assembly, composed of representatives of the several plantations, before the charter of 1621 had been issued.

In Massachusetts * * * although the charter did not authorize representation, an assembly suddenly appeared in 1634, acclaimed by the planters, to the great astonishment of the judges and the serious disgust of certain ministers. The history of Massachusetts is the same as that of Connecticut, of New Haven, and of New Hampshire * * *

And—

In the proprietary governments or chartered governments the right of the people to be governed by a local legislature was little less than evident, it being an article of agreement; even in the provincial governments it was endeavored to ascertain whether representation was a right (which we would call natural), or whether merely a privilege the duration or extension of which the sovereign could determine. The former was the belief of the colonists, and the latter that of the counsellors of the crown.

There is no doubt, therefore, that the old colonies never considered themselves free unless they were represented in the legis-

lature, and this representation never resided in the governor and council, but solely and exclusively in a house of representatives.

POPULAR LONGINGS WHICH THE DISASTER FAILED TO BURY.

What has been said about the House of Commons and the colonial houses of representatives has singular application to the Philippine Assembly. Engendered amidst the suffering of the people who were seeking the just redress of their wrongs and struggling for their liberty, the Assembly has had the virtue of taking to its bosom the longings of the people. These longings were not buried by the disaster. As they lived, so they still live. Only, they have passed from the breasts of the combatants to the seats of the new national temple. It was thought that the appearance of its foreign origin would have influence upon its structure, but the structure is Filipino purely Filipino, from the foundation, which rests in the soil of patriots, to the top.

And when the cannons dissolved the assembly of representatives created, in the days of our trial, by the organic law of January 20, 1899 (the constitution of the Philippine republic), the political sagacity of the American statesmen caused them to incorporate into the Act of July 1, 1902, subsequently called the Organic Act, the provision relative to the Philippine Assembly. From which ever point of view it may be considered, whether from that of the Government or from that of the people, its nature is well defined—it, and under the present form of government it alone, represents the people.

The Assembly being the only genuinely Filipino institution in what Mr. Taft has called the American central government, it is natural that the Filipinos should attribute to it a character of exclusive representation. Without discussing the question whether this representation is a concession or a right, as this would not be pertinent to this matter, the truth is that the sap that nourishes it comes direct from the people, by means of suffrage. It is an idea attributed to Hamilton that the definition of the right of suffrage consists in considering it as precisely the fundamental article of republican government. "Representation," says Tucker, "is the modern method by which the will of a great multitude may express itself through an elected body of men for deliberation in law-making." This representation can not be expressed nor conferred except by means of the ballot.

TAFT CALLED THE PHILIPPINE ASSEMBLY NATIONAL ASSEMBLY.

As to the Government, it has never doubted the representative character of the Assembly. The establishment of the Assembly has always been acknowledged to have been a fundamental chapter in the so-called policy of attraction. The appearance of the Assembly was heralded as a great political conquest and the people in arms were calmed with the promise of effective participation in the government. Many formalities were required before its establishment became a fact, and when the moment came, that is, when the Assembly was established, the promises were reiterated and it was repeated that "no great civilized power has ever managed with such wisdom and disinterestedness the affairs of a people committed by the accidents of war to its hands." A popular government was insisted upon as the ideal of the American policy in the Philippine Islands and we were told by reputable persons that the implantation of the Assembly was an actual step toward self-government. The popular character of the Assembly has been recognized by the responsible chiefs of the American administration. Mr. Taft called it "National Assembly."

A COLONIAL GOVERNMENT DOES NOT REPRESENT THE PEOPLE.

3. The question which now arises is whether, upon the establishment of the assembly of representatives the popular representation in the colonies was incarnated in the general assembly composed of the governor, the council, and the house of representatives.

This question must be decided in the negative.

Although in the various memorials and pamphlets published in connection with the protests against the Stamp Act in America, the arguments were all based upon the grounds that any tax legislation not passed by the respective general assemblies of the colonies was illegal, this does not demonstrate that the colonies recognized in the *general assemblies* their genuine popular representation. The theory was that as the people had no intervention through the general assembly, *where their representatives were*, in the passage of legislation relative to taxes and internal matters, such legislation was unjust and arbitrary.

Be it, therefore, resolved, That the general assembly of the colony has exclusive right and power to impose taxes on its inhabitants, and that any

attempt made to vest those powers on any person or persons not belonging to this general assembly tends visibly to destroy English liberty no less than American liberty.¹

But where the fact that the colonies recognized their true representation to lie in the elective house alone is shown clearly and irrefutably is in one of the resolutions adopted by the congress of representatives of the thirteen colonies assembled at New York at the beginning of October, 1765, to take the proper steps in connection with the Stamp Act.

This resolution reads as follows:

V. That the only representatives of the people of these colonies are persons chosen therein by themselves * * *

As information of special importance, it must be noted that James Otis, of Massachusetts, upon proposing the convocation of this congress, said "it would be composed of delegates from the thirteen colonies, *appointed respectively by the houses of representatives, without consulting the council or the government.*"

The words in italics and the resolution copied show that at no time did the leaders and thinkers of the American colonies think of attributing to the local councils any popular representation, which was vested only in the representatives elected by the people.

The pamphlet "The controversy between Great Britain and the Colonies Reviewed," published anonymously in London, but attributed to W. Knox, assisted by Hon. George Grenville, who had been prime minister when the Stamp Act was passed, said in vain that—

The subjects of Great Britain [in the colonies] are not without their representatives, though the members who compose the House of Commons can not be said to be distinctly so. Neither are they bound by laws, nor is their money taken from them without their own consent given by their representatives. The King, Lord, and Commons are their representatives; for them it is that they have delegated their individual rights over their lives, liberties, and property; and so long as they approve of that form of government, and continue under it, so long do they consent to whatever is done by those they have entrusted with their rights.

This opinion based on the theories of Hooker and Locke, was not accepted by the American colonies. The Revolution successfully refuted these theories and demonstrated, as Snow says, that the will of the people was the supreme power and that all governmental power was a delegation of power.

¹ Paragraph 5 of the resolutions of the general assembly of Virginia.

REPRESENTATION IS NOT PRESUMED, BUT GRANTED IN AN EXPRESS MANNER.

What we have stated so far replies to the affirmations of the Commission concerning the alleged representative character of the Commission or the Government. Nothing is left of the theories of virtual representation maintained by the English ministers unfriendly to the American colonies, and with the fall of Grenville and the fall of the Anglo-American colonial empire it has been definitively established that delegation is not presumed, but must be expressly conferred by the only power that must be and is authorized to confer it: the people. We therefore maintain with the emancipated American colonies that the only true representation is that which comes from the people, and that there is no reason which justifies the allegation that the appointed Commission represents the people as does the Assembly, just as the Americans denied, with more than sufficient reason, that such representation was vested in the appointed local councils and attributed such representation solely and exclusively to the elective houses.

It must not be contended that the Commission represents those who do not vote. This affirmation is in open contradiction with the principle on which restricted suffrage is based. This presupposes, according to Stuart Mill, the existence in society of a class of persons that it is believed must not enjoy the right of suffrage, because either they have no interests in public matters or they have not sufficient capacity to take care of themselves and look after their own interests, and, therefore, to manage the public interests. Without accepting, except with certain reservations, this theory, which has been admitted among the Americans, and without losing from sight the fact that suffrage is restricted in the Philippine Islands, we are with those who are of the opinion that to restrict suffrage in democratic nations is to raise the standard of those who are to manage the public interests. The voters therefore govern for themselves and for those excluded by the law. To accept the theory of the Commission would be equivalent to admitting, likewise, that the children, wives and poor relatives or persons considered incapable by the Commission are represented in the government by the said Commission, a body foreign to the people, instead of being represented by the vote of the fathers, husbands, or relatives considered capable. This is absurd.

APPLICATION OF ALL THAT WE HAVE STATED TO THE QUESTION
RAISED.

After all we have said it is easy for us to reply to the third question raised, namely, whether the Government here established represents the people. The discussion of this point would seem somewhat immaterial, seeing that the Resident Commissioners are elected by the Legislature, and that the Legislature is not the Government. However, the representatives of the Commission having contended that "the Government here established represents the Philippine people," we believe that this allegation should be refuted.

If we understand the Government to be "a body politic, or a society of men, united together to promote their safety and advantage, by means of their union,"¹ or if "the government is an agent, and, within the sphere of the agency, a perfect representative,"² the present Government of the Philippine Islands does not in any manner represent the people, as was also the case with the government of the American colonies, it being an established fact that the sole representation of the Philippine people is concentrated in the Assembly, this Government being the agent or delegate of the Congress of the United States, and its administration being, in a very small proportion, subject to the intervention of the Assembly.

The origin of this government is no secret to anybody. It is known, and nobody denies, that it was established by force. Everybody acknowledges that it is a foreign government. The proposition that it does not represent the Filipinos should therefore not be discussed, it being so clear and evident. However, if we insist upon this point and have given it the consideration accorded to it, it is because the representatives of the Commission have maintained the contrary. This serious affirmation, which might bring with it so many fatal consequences for the Philippine people, could not be allowed to pass without a refutation as complete as possible, considering the space and time at our disposal.

TWO IMPORTANT CITATIONS

We acknowledge, however, that our words lack authority, and if the arguments adduced are not sufficient, we will, in order to conclude, add two more citations.

¹ Thomas vs. Taylor. (2 Am. Rep., 625).

² Grunert vs. Spalding (78 N. W., 606, 613).

The first is taken from an American history. (The American Nation, a History, edited by A. B. Hart. 1690-1740.)

In discussing the Anglo-American colonial politics, the author expresses himself in the following terms:

These general principles of colonial politics can not be understood without a study of the provincial constitution, using the term in its broadest sense to include proprietary as well as royal governments. The essential feature of this system was a governor appointed either by the king or by a proprietor, except in those comparatively rare cases in which the proprietor governed the province in person. In any case, the governor represented the principle of external control, an authority outside of the community itself. His powers and duties were defined by his commission and instructions, issued by this same external authority and revocable at will. By his side stood the councillors, who, except in Massachusetts, derived their powers from the king or proprietor, and thus like him represented the principle of external control * * *. In the legislative department alone was the principle of popular representation generally recognized by the authorities in England. By the close of the seventeenth century every province had its representative assembly known by different names in different colonies. In Virginia, it was the house of burgesses; in South Carolina, the commons house of assembly; and in Massachusetts, the house of representatives.

The other citation, with which we close this document, must be especially authoritative for the Commission. We, of course, recognize it as such. It emanates from the first president of the Commission, the bearer of President McKinley's instructions which the Commission has invoked.

President Taft, then Secretary of War, came to the Philippine Islands, as will be remembered, in order to inaugurate the Philippine Assembly. In his inaugural address he said the following, referring to the section of the Act of July 1, 1902, which institutes the Assembly:

Its effect is to give a *representative body of the Filipinos* a right to initiate legislation, to modify, amend, shape, or defeat legislation proposed by the Commission. The power to obstruct by withholding appropriations is taken away from the Assembly, because if there is not an agreement as to appropriations between the Commission and the Assembly, then the appropriations of the previous year will be continued; but the power with this exception, absolutely to veto all legislation and initiate and shape proposed laws is a most substantial one. *The concurrence of the Assembly in useful legislation can not but command popular support for its enforcement; the discussion in the Assembly and its attitude must be informing to the executive and to the other branch of the legislature, the Commission,*

of *what are the desires of the people*. The discharge of the functions of the Assembly must give to the chosen representatives of the Philippine electorate a most valuable education in the responsibilities and difficulties of practical government. It will put them where they must investigate not only the theoretical wisdom of proposed measures, but also the question whether they can be practically enforced and whether, where expense is involved, they are of sufficient value to justify the imposition of a financial burden upon the people to carry them out. It will bring the members of the Assembly *as representatives of the people* into close relations with the Executive, who will be most anxious to preserve a harmony essential to efficient government and progressive, useful measures of reform.

Upon his return to the United States, Secretary Taft gave an account of voyage to the President. He made a special report, and notwithstanding all his reservations, he said "What should be emphasized in the statement of our national policy is that we wish to prepare the Filipinos for *popular* self-government." He spoke of the central government as a "central American government," and referred to the Assembly as a completely popular elective Assembly to exercise equal legislative power with the Commission." The contrast in the representation of the Commission, or the Government, and the Assembly, is shown the most plainly when Secretary Taft writes the following words:

* * * this step toward greater popular self-government would strengthen the hands of the *Government* by securing from the *people* readier acquiescence, in, and greater obedience to, measures which their *representatives* had joined in passing, than when they were the decrees of an *alien* government.

RECAPITULATION.

The present debate between the representatives of both Houses having become a calm discussion of principles, we will devote the rest of what we have to say to the vexatious phase of this matter, which might have a certain personal character.

To insure greater clearness, we shall again enunciate the principles established in the preceding documents. There are three of principal importance and most directly pertinent to the subject.

1. That the Resident Commissioners represent the Filipino people in the United States.

2. That the Assembly represents the Filipino people, and is, under the present régime, the only body representing it here.

3. That the Commission does not represent the Filipino people.

Before applying these principles to the present case, it is necessary to state the fact that the candidate for Resident Commissioner designated by the Commission has been eight times rejected by the Assembly. Although this candidate belongs to the Progresista Party and this party is represented in the Assembly, yet the last vote rejecting the candidate of the Commission was unanimous.

The reasons of the Commission for making the designation discussed and maintaining the same are, according to its own statements, the following:

1. That the said candidate is the one best able to represent the Commission.

2. That the Commission believes that its candidate is the one who can best represent the Philippine people.

3. That the said candidate held important offices under the Philippine Government and aided in the establishment of the American sovereignty in these Islands.

4. That the said candidate also represents the industrial and commercial interests, and the Commission is of the opinion that these interests should be represented in the person of one of the Resident Commissioners.

5. That previously the candidate mentioned twice received the vote of the Assembly for the office of Resident Commissioner.

THE PEOPLE AND THE GOVERNMENT.

We shall briefly consider these arguments.

1. The principle of representation having been definitively established, and this principle applied to the matter under discussion, we deem it unnecessary to refute the argument that the candidate mentioned is the one who can best represent the Commission. In reality, if this argument is of any value, it militates against the popular representation attributed to the candidate discussed. The representation of the Assembly is one thing and that of the Commission is another, just as the people is one thing and the government another. These two terms can not be confounded. Unfortunately experience has shown that they have frequently been contradictory. Experience also shows that a state of dependency—whether called colonial or not—far from avoiding conflicts, fatally promotes them.

2. We shall speak of this argument further on.

POPULARITY WANTED.

3. If the essential qualification of the Resident Commissioner is that he must represent the Philippine people, the fact that the candidate held important offices under the government of the Philippine republic might possibly have been an indication of popularity at that time, but it is not now conclusive evidence thereof. This indication should be considered in connection with all the other data and circumstances of the case. It must be taken into account, further, that the offices to which the representatives of the Commission refer were not conferred upon the candidate mentioned by popular vote.

We wish to pass over, without any comment, the fact that the candidate aided in the establishment of American sovereignty in these Islands. Some time will probably have to elapse before the opinion of men relative to recent political events can be accepted as calm and impartial. It would be too delicate a task to form an opinion, however reasonable it might be, of the conduct of men who took a part on either side in those events. This is especially so as regards those persons who passed from the side of the Americans to that of the Filipinos, or of those who from positions of the greatest trust among the latter went over to the ranks of the former.

Putting aside what happened as a result of the Philippine revolution, and leaving it to posterity to pass proper judgment upon the conduct of the men of that time, it will be sufficient for the moment to say that, to our mind, this class of popularity built on such an insecure foundation, is not the popularity needed for an office of great responsibility like the one now under discussion.

ATTACKS THE FOUNDATION OF SELF-GOVERNMENT.

4. The argument of the industrial and commercial interests we consider inconsistent. These interests may or may not be national. If they are, they are considered as represented in fact, not only by the candidate designated by the Commission, but by the other candidate nominated by the Assembly. If they are not national, we do not believe it can be reasonably insisted that they must be represented by one of the two Resident Commissioners.

The opinion of the Commission that one of the Resident Commissioners should have certain qualifications as regards wealth and

position also seem untenable to use. It attacks the foundation of the present system of government which, as has been repeated on several occasions, wishes to attract to itself the qualificative of democratic. In a democratic government special interests must be absolutely put aside. When the principal view of the government is the interest of the community, the supreme interest of the people, then all special interests totally disappear. If the theory of the Commission would be accepted, a special privileged class would be created and the door would be shut to the vast majority of the people. Only a few privileged persons "of high standing and influence among those engaged in manufacture, transportation, banking, and commerce" could be called to occupy the office and assume the responsibility of Resident Commissioner.

It will not be too much to say that this theory of the Commission is contrary to American principles. Speaking of equality in America, Lord Bryce says:

This [equality] has been the most constant boast of the Americans themselves, who have believed their liberty more complete than that of any other people, because equality has been more fully blended with it
* * *

The equal possession of civil private rights by all inhabitants, and active or public equality, the equal possession by all of rights to a share in the government such as the electoral franchise and eligibility to public office. Both kinds of political equality exist in America, in the amplest manner
* * *

THE VOTE OF THE ASSEMBLY.

5. The argument that the candidate of the Commission has twice received the vote of the Assembly for the office of Resident Commissioner deserves more careful consideration. It raises the question designated by us as number 2 of the arguments of the Commission, namely, that the said candidate can represent the Filipino people. We do not deny that the candidate mentioned has been twice elected by the Assembly, but we deny that he represents the people now.

At the first glance the argument of the Commission seems to be of some weight. Upon brief examination, however, it will be seen that it is absolutely devoid of a basis. What does it signify that he has been twice elected? Aside from the fact that this Assembly is not the Assembly which voted for said candidate before, and that since then a general election has been held at which new men have

been chosen by means of the ballot, the Commission surely forgets that its candidate has just been rejected eight times by this new Assembly. We do not see why the Commission takes into account only the two times that its candidate was elected, and not the eight times that he was rejected. Either the Commission concedes some value to the vote of the Assembly, or it does not. If the former is the case, nobody who is acquainted with all the facts—with the two former ballots in his favor, as well as with the eight in which he was rejected—will be able to say that the candidate of the Commission represents the people at this precise moment. If the last ballots of the Assembly are not worth anything, then we do not see how such value can be conceded to the others, cast at a remoter date.

It is true that the importance of the vote of the Assembly in such questions can not be denied. Without trying to take anything away from the other House, it would seem to us but just for the Assembly to claim in this question the part that belongs to it, namely, to determine the popularity of the candidate. The answer will be given to us that according to the Organic Act each House is the sole judge of the representative character of the candidate. This is not correct. Neither does it clearly appear from the letter of the law, nor can it even be deduced from it. What the law provides is that each legislature shall choose, each House voting separately, two Resident Commissioners. It does not provide that each House shall choose said Commissioners, but that both Houses shall elect them. That is to say, just what the law does require is, not that one House only shall elect, but that the election of the one shall be sanctioned by that of the other. We say that it can not be deduced that each House is the sole judge of the representative character of its candidate, for two reasons: First, because we deny that there is any such candidate of only one House. It is true that by virtue of a resolution passed by both Houses, the election procedure is for each House to nominate a candidate. But this is not required by the law. What has here been established by a resolution passed merely by the two Houses is within the law, as would be the procedure that the Assembly should elect the two candidates, such election being subject to action by the other House. We invite the attention of the Commission to Secretary Taft's report of January 23, 1908. "Since I left the Islands," says Secretary Taft, "the Assembly has voted for two Resident Commissioners to represent the Islands at

Washington as provided in the Organic Act of the Philippine Government. These Commissioners are elected by the Assembly and the Commission sitting in separate session. The two candidates tendered by the Assembly to the Commission and accepted by the latter were, etc."

Congress itself seems to coincide with the opinion contained in the words of the Secretary of War transcribed here. Both the House of Representatives and the Senate, in two different resolutions adopted on the occasion of the first appearance in Congress of the Philippine Resident Commissioners, establish that these Commissioners have been elected by the Assembly. It is strange that nothing is said of the Commission in these two resolutions. They read as follows:

Resolved, That the privileges of the floor, with the right of debate, be extended to the two Resident Commissioners appointed by the Philippine Assembly in accordance with the provisions of the Act approved July 1, 1902.

Ordered, That the privileges of the floor, with the right of debate, be extended to Benito Legarda and Pablo Ocampo, Resident Commissioners appointed by the Philippine Assembly in accordance with the provisions of the Act approved July 1, 1902.

THE ASSEMBLY SHOULD DESIGNATE THE TWO CANDIDATES.

The second reason why we reject the theory that each House must be the sole judge of the representative character of its candidate, is that, if it were so, it would never happen that the candidate would not be accepted by the other. In the last analysis, the result would be, not that one House would advise the other and participate in the election of its candidate, as seems to be the intention of the Act of Congress, but that each House would proceed entirely separately from the other. In this way the Act of Congress would have been amended without any formality or congressional action. The Legislature would not elect, as the Act mentioned provides, but each House would elect separately. Even the joint resolution passed by the Legislature supports our contention, as it foresees the possible case that the two Houses may not agree, and provides, for this reason, that the designations shall be repeated until the two Houses shall agree.

For us, the true interpretation of this Act of Congress is that the Assembly should practically designate the two candidates,

and that it is for the Commission to approve or disapprove the designations. This construction is in accordance with the law and the principles established above. Because if the Resident Commissioner represents the people in America and the people are represented in the Philippine Islands only by the Assembly the consequence is that the Assembly must be considered as the most appropriate political body for exercising the electoral function of choosing the Resident Commissioner. Perhaps the question will be asked what is the part to be played by the Commission under the Act of Congress? The answer we have already given in preceding documents: The Commission acts in this matter as a moderating power established by Congress in order that "both Houses might jointly share this new responsibility, in order that the representatives of the people, in whom the designation should properly and really be vested, might purge their opinions and adopt their determinations with advice of the Commission."

The explanation of what we say can be found in the precedents of the office and in the situation as it was when Congress passed the Act of July 1, 1902. If we study the status of the territories and their governments, after the type of organization of which ours has been modeled, we shall find that in all cases the office of territorial representative was associated with the people, and in view of this character the people were given, directly or indirectly, a great part of the power to elect. When the Act of Congress did not provide for a direct election, the election was effected by the Legislature of the territory, composed of the council and the house, in joint session, the responsibility of the election being thus placed practically upon the more numerous branch of the legislature.

It would be difficult to ascertain exactly what motives induced Congress to adopt the present form of election of the Philippine Resident Commissioners. However, the belief would not be unfounded that this form was adopted solely upon the recommendation of the men responsible for the administration, with an absolute lack of direct knowledge of conditions in the Archipelago. The considerable number of the Islands seemed to make it difficult to have a direct election, a system instituted in all the territories, including Porto Rico. Besides, confidence in the Filipino people was

only beginning to take root in Congress. Remember with what great difficulty the provision relative to the Assembly was incorporated into the Organic Act.

It must be noted, further, that while Congress determined that the number of representatives in the Assembly could be as high as one hundred, the same Act provided that the Commission was to be composed of only seven members. This reason of the inequality in numbers must have had a powerful influence upon Congress.

THE HOUSES OF THE LEGISLATURE ACTING AS ELECTORAL BODIES.

In the election of Resident Commissioners, the Houses of the Legislature do not act as legislative bodies, but as an electoral body, as mandataries of the people. In so acting, the Houses do not act by and for themselves, but by the people and for the people, it having been admitted that the Resident Commissioner represents the people and not the Legislature. The consequence is that the attitude of the Houses of the Legislature should be decided, not by the opinion of each of them, but by the opinion of the people in whose stead they are acting. The Legislature must do exactly what the people would do if they were voting. However, it being impossible to know the opinion of the people, in a case like the one in hand it would seem natural for the nonelective house to give the preference to the elective, seeing that the latter is naturally in closer contact with the people and better acquainted with their desires and aspirations. Moreover, when the people elect the members of the Assembly, they know that these members will subsequently elect the Resident Commissioners.

Before concluding, we must take up a few affirmations of the Commission which, though not directly pertinent to the subject matter, nevertheless call for an answer.

It has been said that Congress, which instituted the Assembly did not create an entirely elective legislature, and as a result of this constitution of the Legislature, the Resident Commissioners are elected in the manner provided for in the Act of July 1. This is incorrect. There is no relation whatever between the constitution of a legislature and the form of the election of the Resident Commissioners. As has been said before, when the two houses of the

Legislature elect the Resident Commissioners, they act not as legislative bodies, but as an electoral body. For this reason Congress has not always provided the present form of election of the Resident Commissioners, although on other occasions it provided not an entirely elective legislature, but a legislature half elective and half appointive, like our Philippine Legislature.¹

It has also been said that the Congressional records show that section 8 of the Act of July 1, 1902, was not approved as originally proposed by the House of Representatives. In place of the direct vote first proposed, the form of indirect election now in vogue was adopted. This fact does not mean anything. We have examined the debates in Congress and have not found anything indicating that the intention was that each House should elect its Resident Commissioner. All that happened was that the Senate and the House of Representatives did not agree on many parts of the bill, which provoked an extensive debate, and in order to come to an agreement, a conference was had, and it was agreed by the committee of conference that the Senate should withdraw some amendments and the House of Representatives others.

THE BALLOT OF THE COMMISSION.

There is another point touching the Commission that must not be forgotten. It is in regard to the affirmation of the Commission that it has not found any reason why its candidate should not be reelected. We do not wish to discuss now the advisability or inadvisability of frequent reelections. The Filipino people have shown more than once that they are not much in favor of reelections, except when they are really justified. Cases of second reelections are very rare in the Philippine Islands. But we wish to take up an absurd contention of the Commission. The Commission said that it does not know what its candidate had done not to be reelected. We understand that the question is not whether the candidate has not done anything in order not to be reelected, but whether he has really done anything for the people that would militate in favor of his reelection. If we were to accept the theory of the Commission, we should also accept the strange consequence that in cases of re-

¹ Territory of Mississippi, Act of Congress of January 9, 1808; territory of Missouri, Act of Congress of July 4, 1819; Territory of Michigan, Act of March 30, 1822; and Porto Rico, Act of April 12, 1900.

election the people would have to show why they did not reelect a person, instead of the person desiring to be reelected being required to demonstrate, upon appearing before the people, the reasons in favor of his reelection. If it were not so, it would be sufficient to be elected once, then the successful candidate could remain idle and continue being reelected until he, and not the electorate should say, "enough."

We do not desire to repeat what we have already said about the political parties, their meaning and the part they play in our opinion in a government of the republican type. We only say, as if to complete what we said before, that no way has yet been discovered of ascertaining the opinion of the people, outside of the usual means known in politics. The part played by political parties can not be denied recognition.

Let us accept, as the ultimate result of our theory regarding political parties, that the Nationalist majority might require the two Resident Commissioners to be of the majority party. This consequence would be logical and the result natural. However, nothing prevents the majority from waiving objections on this occasion, especially in order to carry out the policy set forth by us in our first reply.

We regret to differ with the Commission in its belief that we are illogical in not accepting its candidate as a popular candidate, while we admit that the minority of the Assembly, which is not more than one-fourth of the power of that body, has some representation. With all respect due, permit us to say that for us the minority of the Assembly has much more popular representation than the whole Commission. The Commission, as we have already shown, lacks popular representation while, on one hand, each member of the minority represents at least ninety thousand inhabitants of his district, and, on the other, in the long run this minority is an integral part of a known political party whose ideas and representation are manifested by its members in the Assembly.

WE CAN NOT, WE MUST NOT, GIVE IN!

The Commission as well as the Assembly has a right to persist in its attitude. The Assembly realizes that if it persists, there may not be any election of Resident Commissioners. We have thought all this over, we have measured the consequences of our attitude, and

after realizing the situation and its results, we resolutely decide that we must not accept the candidate proposed by the Commission. To do otherwise would mean to give our votes to a candidate whom the people, through the Assembly, has rejected and does reject.

We can not sacrifice essential ideas or principles. We can not give in, when it comes to fundamentals. And for the very reason advanced by the representatives of the Commission: "It should not be forgotten, also, that, although participation in the Government has been granted to the Filipinos, self-government has not been entirely established in these Islands."

If we wish to be free, if we wish to be independent—and the representatives of the Commission know that this is our desire—we must not compromise in what is essential, we must not give in, when to give in means an attempt on the rights of the people. We are here by the people, and for the people, to watch over their interests, or, otherwise, our representation is superfluous.

**EXCERPTS FROM THE JOURNAL OF THE ASSEMBLY GIVING
AN IDEA OF WHAT OCCURRED IN THIS HOUSE AFTER
THE REPORT OF DISAGREEMENT.**

RECORD NO. 88.

Wednesday, February 1, 1911.

The session is opened at 7 p. m.

SPEAKER PRO TEMPORE.

The Speaker designates Sr. Ocampo as Speaker *pro tempore*, and Sr. Ocampo takes the chair.

**DISAGREEMENT OF THE COMMITTEES OF CONFERENCE ON THE MATTER
OF THE ELECTION OF RESIDENT COMMISSIONERS.**

Sr. Osmeña, on behalf of the Assembly committee of conference on the matter of the election of Resident Commissioners, of which he is the chairman, reports to the Chair that the said committee having met the Commission committee as often as necessary, the said committees of conference, after full and free conference, have been unable to agree.

He presents the report and record of the committee of conference.

Sr. Sotto requests that the said conference documents be read,

And there being no objection on the part of the House,

The same are read.

After some time spent in the reading of the documents mentioned, Sr. Barretto requests that the reading thereof be suspended, to be continued at the next session.

And, said motion being still pending, he requests, further, that the next session be held at 9 a. m. on the following day.

Both motions, being submitted to the House, are

Carried.

Attest:

RAMÓN DIOKNO,
Secretary, Philippine Assembly.

RECORD NO. 89.

Thursday, February 2, 1911.

The session is opened at 11.50 a. m.

SPEAKER PRO TEMPORE.

The Speaker again designates Sr. Ocampo as Speaker *pro tempore*.
Sr. Ocampo occupies the chair.

ELECTION OF RESIDENT COMMISSIONERS: THE REPORT OF DISAGREEMENT UNANIMOUSLY APPROVED.

By order of the Speaker the reading of the documents presented by the Assembly committee of conference on the matter of the election of Resident Commissioners continues.

The reading having been completed,

Sr. Osmeña, chairman of the Assembly committee of conference, asks the House to adopt the report and conclusions of the committee.

Sr. Kalaw moves that the roll be called.

The motion being put before the House, it is

Carried by a majority vote.

The question being upon the adoption of the report and conclusions of the committee of conference on the election of Resident Commissioners, the roll is called, with the following result:

Yeas	55
Nays	0
Absent	25

YEAS.

Messrs. Adriático,
Apacible,
Aréjola,
Azanza,
Balmori,
Barrera,
Barretto,
Borja,
Brimbuela,

Messrs. Caedo,
Capistrano,
Causing,
Claravall,
Concepción,
Contreras,
Diaz,
Fonacier,
Fuentebella,

Messrs. Gabaldón,
 Galicano,
 Grajo,
 Granados,
 Guanco,
 Guevara,
 Ilagan,
 Kalaw,
 Lopez Villanueva,
 Lozada,
 Lukban,
 Luna, Joaquín D.
 Manikan,
 Mercado,
 Nieva,
 Obieta,
 Osmeña,
 Padilla,

Messrs. Paredes,
 Paulino,
 Pesson,
 Ponce,
 Ramos,
 Reyes,
 Rosario,
 Ruiz,
 Samson,
 Sandoval,
 Sotto,
 Tirona,
 Tupas,
 Valle,
 Veyra,
 Villanueva, Francisco,
 Zúñiga,
 Zurbito, and

The Speaker pro tempore.

ABSENT.

Messrs. Acuña,
 Borromeo,
 Boylés,
 Braganza,
 Calleja,
 Cinco,
 Clarín,
 Cortés,
 Fajardo,
 Guingona,
 Fernandez,
 Javier,
 Ledesma,

Messrs. Lopez, Ramon
 Lopez, Vito
 Luna, Jose L.
 Marchadesch,
 Pajarillo,
 Patajo,
 Perez,
 Rodríguez,
 Salazar,
 Singson,
 Villamor, and
 Villanueva, Hermenegildo.

The Chair, therefore, declares that the report and conclusions of the Assembly committee on conference are adopted.

ELECTION CONCLUDED AND OF NO EFFECT.

Sr. Kalaw requests that the rules be suspended and asks for the adoption of Assembly Joint Resolution No. 20, introduced by him, and entitled:

Joint Resolution repealing Joint Resolutions Numbered Two, of the First Philippine Legislature, and One and Two, of the Second Philippine

Legislature, and declaring the election of Resident Commissioners to the United States concluded and of no effect.¹

The Joint Resolution is read,
And the aforesaid motions being put before the House, and
A majority having voted in favor of them,
The Rules are suspended and the Joint Resolution is
Adopted.

Attest:

RAMÓN DIOKNO,
Secretary, Philippine Assembly.

¹ The Kalaw resolution reads as follows:

"Resolved by the Philippine Commission and the Philippine Assembly,
That, it being impossible for the two Houses of the Legislature to come
to an agreement in the matter of the election of Resident Commissioners
to the United States under the provisions of Joint Resolutions Numbered
Two, of the First Philippine Legislature, and One and Two, of the Second
Legislature, the said Resolutions are hereby repealed and the election of
said Resident Commissioners by both Houses of this Legislature is declared
concluded and of no effect, unless Congress shall by subsequent legislation
provide that the Legislature proceed anew to the election of such Resident
Commissioners.

"Adopted."

RECORD NO. 90.

Friday; February 3, 1911.

The session is opened at 12.30 p. m.

The Secretary reads the following

MESSAGES FROM THE COMMISSION.

MANILA, *February 3, 1911.*

MR. SPEAKER: I have been directed to inform your honorable body that the Commission, on February 3, 1911, laid on the table Assembly Joint Resolution No. 20, entitled:

"Joint Resolution repealing Joint Resolutions Numbered Two, of the First Philippine Legislature, and One and Two, of the Second Philippine Legislature, and declaring the election of Resident Commissioners to the United States concluded and of no effect."

Copy of the committee report on this Joint Resolution is inclosed herewith for the information of the Assembly.

Very respectfully,

(Sgd.) GEO. C. SCHWEICKERT,
Acting Secretary, Philippine Commission.

To the Honorable,
the SPEAKER OF THE PHILIPPINE ASSEMBLY.

Ordered filed.

MANILA, *February 3, 1911.*

MR. SPEAKER: I have been directed to inform your honorable body that the Commission is ready to proceed with the matter of the election of Resident Commissioners to the United States.

Very respectfully,

(Sgd.) GEO. C. SCHWEICKERT,
Acting Secretary, Philippine Commission.

To the Honorable,
the SPEAKER OF THE PHILIPPINE ASSEMBLY.

APPOINTMENT OF A JOINT COMMITTEE OF DESIGNATION.

Sr. Adriático, on behalf of the Committee on Rules, introduces Assembly Joint Resolution No. 21, prepared by said committee, and entitled:

Joint Resolution providing for the appointment of a Joint Committee to select the Resident Commissioners to the United States.¹

The Secretary reads the resolution, and

The Chair having put its passage, the same is

Adopted.

The Chair thereupon appoints the following

JOINT COMMITTEE TO SELECT THE RESIDENT COMMISSIONERS.

Messrs. Barretto,
Clarín, and
Singson.

The Secretary reads the following

MESSAGE FROM THE COMMISSION.

MANILA, February 3, 1911.

MR. SPEAKER: I have been directed to inform your honorable body that the Commission on February 3, 1911, adopted without amendment Assembly Joint Resolution No. 21, entitled:

Joint Resolution providing for the appointment of a Joint Committee to select the Resident Commissioners to the United States, and has appointed as the Committee on its part under the provisions of this resolution Commissioners Gilbert, Sumulong, and the President.

Very respectfully,

(Sgd.) GEO. C. SCHWEICKERT,
Acting Secretary, Philippine Commission.

To the Honorable,
the SPEAKER OF THE PHILIPPINE ASSEMBLY.

Ordered filed.

¹ This resolution reads as follows:

"Resolved by the Philippine Commission and the Philippine Assembly, That, notwithstanding any provision to the contrary contained in Joint Resolutions Numbered Two of the First Philippine Legislature and Two of the Second Philippine Legislature, a Joint Conference Committee is appointed, composed of members of each House, not exceeding three for each, to come to an agreement, if possible, regarding the candidates for Philippine Resident Commissioners to the United States.

"Adopted."

DESIGNATION OF RESIDENT COMMISSIONERS—REPORT OF THE JOINT COMMITTEE OF DESIGNATION—PROPOSITION OF COMMISSION, REJECTED.

Sr. Barretto, on behalf of the Delegates who are members of the Joint Committee to designate the Resident Commissioners to the United States, reports to the House that said committee has been unable to agree, since the representatives of the Commission insist upon the designation of the Honorable Benito Legarda as candidate of said body. He further states that the representatives of the Commission propose that the Legislature recommend to the Congress of the United States that it amend the legislation relative to Resident Commissioners in the sense that the term of four years begin with March 4, 1913, and that the present Resident Commissioners continue to hold office until other Commissioners shall be duly appointed and qualified.

Sr. Sotto moves that the proposition of the Commission be rejected.

The Chair having put the question to a vote, said proposition is Rejected.

THE COMMISSION NOTIFIED.

Sr. Barretto then requests permission to absent himself from the Hall in order to notify the Commission of the aforesaid resolution.

Sr. Singson believes that the proposition of the Commission furnishes a means of settling this matter at once, and proposes that the same be accepted in order to put an end to the existing disagreements.

The Chair explains to the House that Sr. Singson's motion involves a reconsideration of the matter, but that it is nevertheless submitted to the House.

The question then being upon its passage, it was Rejected.

The Chair then submits to the House the request of Sr. Barretto for leave to absent himself.

And, there being no objection,

The Chair grants the permission requested.

ELECTION OF RESIDENT COMMISSIONERS—NEW REPORT OF THE JOINT COMMITTEE OF DESIGNATION.

Sr. Barretto states, on behalf of the Assembly members of the Joint Committee of designation, that he has notified the Commission that the House has not accepted the suggestion made by the former

on the subject of the election of the Resident Commissioners, and that inasmuch as Joint Resolution No. 2 of the present Legislature is still in force, he suggests that the Resident Commissioners be designated to-day, for which purpose the House should enter into Committee of the Whole.

Sr. Fuentebella believes that the report of the committee involves a motion before the House, and wishes to know whether the motion or the adoption of the report should be put to a vote.

Sr. Singson, on his part, states that the committee has merely reported to the House what occurred in the committee, and calls the attention of the House to the fact that the Joint Resolution of both bodies is still in force, and that the House should therefore proceed in accordance with said resolution.

RECESS.

The session is suspended at 10.27 p. m.

At 10.37 p. m. the House reconvenes.

ELECTION OF RESIDENT COMMISSIONERS—LEGARDA DESIGNATED BY THE COMMISSION.

The Secretary reads the following

MESSAGE FROM THE COMMISSION.

MANILA, *February 3, 1911.*

MR. SPEAKER: I have been directed to inform your honorable body that the Commission has designated the Honorable Benito Legarda as its candidate for the office of Resident Commissioner to the United States.

Very respectfully,

(Sgd.) GEO. C. SCHWEICKEET,
Acting Secretary, Philippine Commission.

To the Honorable,
the SPEAKER OF THE PHILIPPINE ASSEMBLY.

THE HOUSE GOES INTO COMMITTEE OF THE WHOLE.

Sr. Barretto requests the unanimous consent of the House that the same go into Committee of the Whole.

There being no objection,

The House goes into Committee of the Whole, the Chair designating Sr. Veyra as chairman of said committee.

The session of the House is suspended at 10.38 p. m.

THE HOUSE RETURNS TO REGULAR SESSION.

At 10.40 p. m. the Speaker again occupies the chair and the House returns to regular session.

REPORT OF THE COMMITTEE OF THE WHOLE.

Sr. Veyra, as chairman of the Committee of the Whole, reports that said committee has considered the matter of the election of Resident Commissioners to the United States and the designation by the Commission of the Honorable Benito Legarda, and that he has been directed to report on the matter, with the recommendation that he introduce and request the adoption of Assembly Resolution No. 94, prepared by the Committee on Rules and approved by the Committee of the Whole, entitled:

Resolution declaring the election of Resident Commissioners to have failed, under the procedure outlined in Joint Resolutions Numbered Two, of the First Legislature, and Two, of the Second Legislature.¹

and that he therefore presents the said resolution and asks that it be adopted.

The Secretary reads the resolution mentioned, and

The Chair having called a vote, the same was

Adopted.

Attest:

RAMÓN DIOKNO,
Secretary, Philippine Assembly.

¹ This resolution reads as follows:

"Be it resolved, That in view of the persistence of the Commission in proposing the Honorable Benito Legarda for Resident Commissioner and it being impossible for the Assembly to concur in this nomination, the Assembly believes that if it were again to nominate the Honorable Manuel L. Quezon and reject Señor Legarda, as would be its unanimous action, no result would be attained thereby; and for this reason, and considering, likewise, that the Legislature is about to close its present session, be it

"Resolved, further, That the election of Resident Commissioners be hereby declared to have failed, under the procedure outlined in Joint Resolutions No. 2 of the First Legislature and No. 2 of the Second Legislature.

"Adopted."

